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AN ACT

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

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 Department Act:

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

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

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

1           A. the administrative services division; and

2           B. the program services division.

3           Section 5. SECRETARY OF HISPANIC AFFAIRS.--

4           A. The chief executive and administrative officer  
5 of the department is the "secretary of Hispanic affairs".

6 The secretary shall be appointed by the governor with the  
7 consent of the senate. The secretary shall hold the office  
8 at the pleasure of the governor and shall serve in the  
9 executive cabinet.

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

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

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

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

1 provisions, the secretary shall:

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

6 (2) delegate authority to subordinates as  
7 necessary and appropriate, clearly delineating such delegated  
8 authority and the limitations thereto;

9 (3) organize the department into those  
10 organizational units that will enable it to function most  
11 efficiently, subject to any provisions of law requiring or  
12 establishing specific organizational units;

13 (4) within the limitations of available  
14 appropriations and applicable laws, employ and fix the  
15 compensation of those persons necessary to discharge the  
16 secretary's duties;

17 (5) take administrative action by issuing  
18 orders and instructions, not inconsistent with the law, to  
19 ensure implementation of and compliance with the provisions  
20 of law, the administration or execution of which the  
21 secretary is responsible, and to enforce those orders and  
22 instructions by appropriate administrative action or actions  
23 in the courts;

24 (6) conduct research and studies that will  
25 improve the operations of the department and the provision of

1 services to the residents of the state;

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

7 (8) prepare an annual budget of the  
8 department;

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

11 (a) minimize or eliminate duplication  
12 of services;

13 (b) coordinate activities and resolve  
14 problems of mutual concern; and

15 (c) resolve by agreement the manner and  
16 extent to which the department shall provide budgeting,  
17 recordkeeping and related clerical assistance to  
18 administratively attached agencies; and

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

22 C. The secretary may apply for and receive, with  
23 the governor's approval, in the name of the department, any  
24 public or private funds, including United States government  
25 funds, available to the department to carry out its programs,

1 duties or services.

2 D. When functions of departments overlap or a  
3 function assigned to one department could be performed better  
4 by another department, the secretary may recommend  
5 appropriate legislation to the next session of the  
6 legislature for its approval.

7 E. The secretary may make and adopt such  
8 reasonable procedural rules as may be necessary to carry out  
9 the duties of the department and its divisions. A rule  
10 promulgated by the director of a division in carrying out the  
11 functions and duties of the division shall not be effective  
12 until approved by the secretary. Unless otherwise provided  
13 by statute, a rule affecting a person or agency outside the  
14 department shall not be adopted, amended or repealed without  
15 a public hearing on the proposed action before the secretary  
16 or a hearing officer designated by the secretary. The public  
17 hearing shall be held in diverse geographic areas of the  
18 state unless otherwise permitted by statute. Notice of the  
19 subject matter of the rule, the action proposed to be taken,  
20 the time and place of the hearing, the manner in which  
21 interested persons may present their views and the method by  
22 which copies of the proposed rule, proposed amendment or  
23 repeal of an existing rule may be obtained shall be published  
24 once at least thirty days prior to the hearing date in a  
25 newspaper of general circulation and mailed at least thirty

1 days prior to the hearing date to all persons who have made a  
2 written request for advance notice of hearing. All rules  
3 shall be filed in accordance with the State Rules Act.

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

5 A. The department shall:

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

17 (2) assist in setting the policy, and act as  
18 the clearinghouse, for all state programs affecting Hispanics  
19 of New Mexico.

20 B. The department may:

21 (1) hold hearings, conduct meetings, make  
22 investigations and confer with officials of local, state and  
23 federal agencies to secure cooperation between the local,  
24 state, federal and Native American tribal governments in the  
25 promotion of the welfare of Hispanics of New Mexico;

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

5                   (3) solicit and accept gifts, grants,  
6 donations, bequests and devises.

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

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

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

20           Section 9. DIVISION DIRECTORS.--Except as otherwise  
21 provided by law, the secretary shall appoint, with the  
22 approval of the governor, directors of divisions established  
23 within the department. The directors so appointed are exempt  
24 from the Personnel Act.

25           Section 10. BUREAU CHIEFS.--The secretary may establish

1 within each division such bureaus as the secretary deems  
2 necessary to carry out the provisions of the Hispanic Affairs  
3 Department Act. The secretary shall appoint a chief to be  
4 the administrative head of a bureau. A chief and all  
5 subsidiary employees of the department are covered by the  
6 Personnel Act unless otherwise provided by law.

7 Section 11. ADMINISTRATIVE SERVICES DIVISION--DUTIES.--

8 The administrative services division of the department shall  
9 provide administrative services to the department, including:

- 10 A. keeping all official records of the department;  
11 B. providing clerical services in the areas of  
12 personnel and budget preparation; and  
13 C. providing clerical, recordkeeping and  
14 administrative support to agencies administratively attached  
15 to the department, at their request.

16 Section 12. PROGRAM SERVICES DIVISION--DUTIES.--The

17 program services division of the department shall provide  
18 program implementation and support for field programs and  
19 services.

20 Section 13. HISPANIC AFFAIRS COMMISSION CREATED.--

21 A. The "Hispanic affairs commission" is created.  
22 The commission consists of ten members who are residents of  
23 New Mexico appointed by the governor as follows:

- 24 (1) two members who are members of the  
25 Hispano round table of New Mexico;

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

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

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

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

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

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

12                   B. Members who represent organizations shall be  
13 appointed by the governor from lists of three names submitted  
14 by each of the organizations represented.

15                   C. Members shall serve four-year terms. A vacancy  
16 shall be filled by appointment by the governor in the same  
17 manner as the original appointment for the unexpired term of  
18 the vacating member.

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

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

24                   Section 14. DUTIES OF THE COMMISSION.--The Hispanic  
25 affairs commission shall:

