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SENATE BILL 203

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Linda M. Lopez

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 a statewide annual status report,
7 by counties or school districts as appropriate, covering major
8 areas, including but not limited to education, health,
9 employment, income and poverty, and conduct an annual
10 conference with experts and community leaders to assess the
11 annual report and provide legislative and policy
12 recommendations;

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

16 (8) provide courses of instruction and
17 practical training for employees of the department and other
18 persons involved in the administration of programs with the
19 objective of improving the operations and efficiency of
20 administration;

21 (9) prepare an annual budget of the
22 department;

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

25 (a) minimize or eliminate duplication of

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1 services;

2 (b) coordinate activities and resolve
3 problems of mutual concern; and

4 (c) resolve by agreement the manner and
5 extent to which the department shall provide budgeting,
6 recordkeeping and related clerical assistance to
7 administratively attached agencies; and

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

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

16 D. When functions of departments overlap or a
17 function assigned to one department could be performed better
18 by another department, the secretary may recommend appropriate
19 legislation to the next session of the legislature for its
20 approval. Legislative recommendations made by the secretary
21 shall be subject to the direction and supervision of the
22 governor.

23 E. The secretary may make and adopt such reasonable
24 procedural rules as may be necessary to carry out the duties of
25 the department and its divisions. A rule promulgated by the

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1 director of a division in carrying out the functions and duties
2 of the division shall not be effective until approved by the
3 secretary. Unless otherwise provided by statute, a rule
4 affecting a person or agency outside the department shall not
5 be adopted, amended or repealed without a public hearing on the
6 proposed action before the secretary or a hearing officer
7 designated by the secretary. The public hearing shall be held
8 in Santa Fe unless otherwise permitted by statute. Notice of
9 the subject matter of the rule, the action proposed to be
10 taken, the time and place of the hearing, the manner in which
11 interested persons may present their views and the method by
12 which copies of the proposed rule, proposed amendment or repeal
13 of an existing rule may be obtained shall be published once at
14 least thirty days prior to the hearing date in a newspaper of
15 general circulation and mailed at least thirty days prior to
16 the hearing date to all persons who have made a written request
17 for advance notice of hearing. All rules shall be filed in
18 accordance with the State Rules Act.

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

20 A. The department shall:

21 (1) investigate, study, consider and act upon
22 the entire subject of Hispanic affairs within New Mexico,
23 including problems of health, economy and education and the
24 effect of local, state and federal legislative, executive and
25 judicial actions. The department shall collaborate with other

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1 state departments and agencies that have an interest or stake
2 in the subject being investigated, studied or considered. In
3 performing its functions, the department shall provide an
4 opportunity for the presentation and exchange of ideas with
5 respect to Hispanic affairs of the state by all interested
6 persons; and

7 (2) assist in setting the policy, and act as
8 the clearinghouse, for all state programs affecting Hispanics
9 of New Mexico.

10 B. The department may:

11 (1) hold hearings, conduct meetings, make
12 investigations and confer with officials of local, state and
13 federal agencies to secure cooperation between the local,
14 state, federal and Native American tribal governments in the
15 promotion of the welfare of Hispanics of New Mexico;

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

19 (3) solicit and accept gifts, grants,
20 donations, bequests and devises.

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

23 A. Those organizational units of the department and
24 the officers of those units specified by law shall have all of
25 the powers and duties enumerated in the specific laws involved.

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1 However, the carrying out of those powers and duties shall be
2 subject to the direction and supervision of the secretary, who
3 shall retain the final decision-making authority and
4 responsibility for the administration of any such laws.

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

8 Section 9. DIVISION DIRECTORS.--Except as otherwise
9 provided by law, the secretary shall appoint, with the approval
10 of the governor, directors of divisions established within the
11 department. The directors so appointed are exempt from the
12 Personnel Act.

13 Section 10. BUREAU CHIEFS.--The secretary may establish
14 within each division such bureaus as the secretary deems
15 necessary to carry out the provisions of the Hispanic Affairs
16 Department Act. The secretary shall appoint a chief to be the
17 administrative head of a bureau. A chief and all subsidiary
18 employees of the department are covered by the Personnel Act
19 unless otherwise provided by law.

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

- 23 A. keeping all official records of the department;
24 B. providing clerical services in the areas of
25 personnel and budget preparation; and

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1 C. providing clerical, recordkeeping and
2 administrative support to agencies administratively attached to
3 the department, at their request.

4 Section 12. PROGRAM SERVICES DIVISION--DUTIES.--The
5 program services division of the department shall provide
6 program implementation and support for field programs and
7 services.

8 Section 13. HISPANIC AFFAIRS COMMISSION CREATED.--

9 A. The "Hispanic affairs commission" is created.
10 The commission consists of ten members, including two co-
11 chairs, who are residents of New Mexico appointed by the
12 governor as follows:

13 (1) one co-chair with a business and economic
14 background and expertise in Hispanic affairs;

15 (2) one co-chair with a civil rights
16 background and expertise in Hispanic affairs;

17 (3) one member representing the public
18 education department;

19 (4) one member representing the department of
20 health;

21 (5) one member representing the economic
22 development department; and

23 (6) five members who represent geographically
24 diverse areas of New Mexico and are of Hispanic descent.

25 B. Members shall serve four-year terms. A vacancy

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1 shall be filled by appointment by the governor in the same
2 manner as the original appointment for the unexpired term of
3 the vacating member.

4 C. The commission shall elect other officers as it
5 deems necessary.

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

9 Section 14. DUTIES OF THE COMMISSION.--The Hispanic
10 affairs commission shall:

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

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

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

20 Section 15. APPROPRIATION.--Nine hundred fifty thousand
21 dollars (\$950,000) is appropriated from the general fund to the
22 department of finance and administration for expenditure in
23 fiscal year 2011 to pay expenses of establishing the Hispanic
24 affairs department. Any unexpended or unencumbered balance
25 remaining at the end of fiscal year 2011 shall revert to the

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1 general fund.

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