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SENATE BILL 419

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO STATE GOVERNMENT; ENACTING THE CABINET SECRETARY
EVALUATION ACT; REQUIRING CABINET SECRETARIES TO BE
KNOWLEDGEABLE IN THE SUBJECT AREAS REGULATED AND OVERSEEN BY
THEIR DEPARTMENTS AND TO MEET ANY CONSTITUTIONAL OR STATUTORY
REQUIREMENTS; REQUIRING ANNUAL SECRETARY EFFECTIVENESS
EVALUATIONS; PROVIDING POWERS AND DUTIES; REQUIRING TESTING;
REQUIRING GRADING OF CABINET DEPARTMENTS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Cabinet Secretary Evaluation Act".

SECTION 2. [NEW MATERIAL] CABINET SECRETARY--PURPOSE--
DEPARTMENT RANKING--UNIFORM PROCEDURES--METHODOLOGY.--

A. The purpose of the Cabinet Secretary Evaluation
Act is to establish uniform procedures for conducting annual

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1 evaluations of the secretary of each cabinet department based
2 on the:

3 (1) expertise and experience of the department
4 exempt and classified staff;

5 (2) ability of the department to meet its
6 performance measures as provided in the Accountability in
7 Government Act and accomplish its goals for the year;

8 (3) number of complaints received about the
9 department or its staff and the alacrity with which complaints
10 are addressed;

11 (4) attendance record of all department
12 officers and employees; and

13 (5) responsiveness of department staff to
14 clients and residents.

15 B. Another purpose of the Cabinet Secretary
16 Evaluation Act is to rank each cabinet department on its
17 performance and the performance of its secretary. The
18 methodology to determine rankings shall be published on each
19 department's web site, and the department shall seek input from
20 the public. Rankings shall be published on the governor's web
21 site.

22 C. The Cabinet Secretary Evaluation Act seeks to
23 change the dynamic of state employment by placing emphasis on
24 cabinet secretary leadership and employee effectiveness and
25 providing the opportunity to acknowledge excellence, thereby

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1 replacing the current system that emphasizes political
2 favoritism over expertise, experience and competence.

3 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
4 Cabinet Secretary Evaluation Act:

5 A. "cabinet secretary" means the head of a cabinet
6 department and a member of the governor's cabinet as provided
7 for in the Executive Reorganization Act;

8 B. "certified observer" means a person who has:
9 (1) expertise and experience in one or more of
10 the subject areas of responsibility of the department being
11 observed;

12 (2) expertise and experience in administering
13 governmental departments; and

14 (3) completed observation and evaluation
15 training and is certified by the personnel board;

16 C. "effectiveness evaluation system" means the
17 evaluation system developed by the state personnel office to
18 measure the effectiveness of the cabinet secretary; and

19 D. "fidelity observation" means the periodic
20 observation and evaluation of the cabinet secretary at work.

21 SECTION 4. [NEW MATERIAL] CABINET SECRETARIES--OTHER
22 POSITIONS--APPOINTMENT--EVALUATION OF EXPERTISE--TESTING.--

23 A. As part of the process of vetting appointees to
24 cabinet secretary positions, the senate rules committee shall
25 inquire as to:

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1 (1) the expertise and experience of the
2 cabinet secretary-appointee in the subject areas regulated or
3 overseen by the department in which the cabinet secretary-
4 appointee will serve;

5 (2) the qualifications of the cabinet
6 secretary-appointee that meet any constitutional or statutory
7 qualifications;

8 (3) the cabinet secretary-appointee's
9 knowledge of New Mexico state government;

10 (4) the cabinet secretary-appointee's
11 experience administering comparable programs and managing
12 comparable staffs and budgets; and

13 (5) any other matters that pertain to the
14 cabinet secretary-appointee's ability to perform the powers and
15 duties of the cabinet department to which the cabinet
16 secretary-appointee is appointed.

17 B. By September 1, 2015, the state personnel office
18 shall select experts in state or local government to assist the
19 office in developing subject area tests to be used to evaluate
20 a cabinet secretary-appointee's abilities as provided in
21 Subsection A of this section. Test results shall be given to
22 the senate rules committee and are public records.

23 SECTION 5. [NEW MATERIAL] EVALUATION SYSTEM--APPROVAL BY
24 PERSONNEL BOARD.--

25 A. As soon as possible but no later than September

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1 1, 2015, the personnel board shall select a professionally
2 derived effectiveness evaluation system that measures the
3 performance of each cabinet secretary.

4 B. The effectiveness evaluation system shall
5 include job-specific measures. The effectiveness evaluation
6 shall be based on sound principles of the discipline or subject
7 area in which the cabinet secretary works and contemporary
8 research in effective practices in the discipline or subject
9 area. The cabinet secretary shall be observed by a certified
10 observer as well as undergo a fidelity observation at least
11 once every year. The effectiveness evaluation measures shall
12 identify five levels of performance:

- 13 (1) exemplary, meets competency;
- 14 (2) highly effective, meets competency;
- 15 (3) effective, meets competency;
- 16 (4) minimally effective, does not meet
17 competency; and
- 18 (5) ineffective, does not meet competency.

19 C. Fifty percent of the cabinet secretary's
20 evaluation shall be based on the competence, performance and
21 growth of department employees; fifteen percent shall be based
22 on the cabinet department's meeting its performance measures
23 specified in the general appropriation act and its mission and
24 goals for the year as defined by the governor at the beginning
25 of each year; ten percent shall be based on standardized

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1 responses received from employees and clients of the
2 department; and twenty-five percent shall be based on the
3 department's grade.

4 D. A cabinet secretary rated minimally effective or
5 ineffective may be given a notice of dismissal by the governor.
6 If the cabinet secretary is not dismissed, the governor shall
7 place the cabinet secretary on a performance growth plan for
8 ninety days from receipt of the notice of minimally effective
9 or ineffective; provided that during the ninety days, the
10 cabinet secretary shall be observed and evaluated at least four
11 times and shall be informed of the results of those
12 observations in writing.

13 E. Within five days after the expiration of the
14 ninety-day performance growth plan, the evaluator shall
15 determine whether the performance deficiencies have been
16 corrected and forward a written recommendation to the governor.

17 F. Within ten days after receipt of the written
18 recommendation, the governor shall notify the cabinet secretary
19 in writing of the governor's decision to dismiss or demote the
20 cabinet secretary.

21 G. A cabinet secretary who is rated as minimally
22 effective or ineffective for two successive years shall be
23 dismissed by the governor.

24 SECTION 6. [NEW MATERIAL] CABINET DEPARTMENT GRADES.--

25 A. The governor and the cabinet and management

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1 analysts appointed by the state personnel office shall develop
2 a cabinet department grading program that measures growth in
3 each cabinet department based on the elements in the cabinet
4 secretary's evaluation. At the end of each year, the team
5 shall assign a letter grade A through F to each cabinet
6 department. The grades shall be published on the governor's
7 web site. A cabinet secretary of a department that is graded D
8 or F for two successive years shall be dismissed.

9 B. Each cabinet department shall report annually to
10 the legislature through the legislative finance committee and
11 other appropriate legislative committees on the results of the
12 cabinet secretary evaluations.

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