

SENATE BILL 368

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Antoinette Sedillo Lopez

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO GOVERNMENTAL ACCESSIBILITY; REQUIRING ALL STATE DEPARTMENTS TO PROVIDE SHPAC→**FULL**←SHPAC SHPAC→**MEANINGFUL**←SHPAC 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) is amended to read:

.218868.5AIC March 16, 2021 (8:51am)

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"9-1-5. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. It is [~~his~~] the secretary's duty to manage all operations of the department and to administer and enforce the laws with which [~~he~~] the secretary or the department is charged.

B. To perform [~~his~~] the secretary's duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department, except where authority conferred upon any division [~~therein~~] is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in [~~this~~] the Executive Reorganization Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as [~~he~~] the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units [~~he~~] the secretary deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

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

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law ~~[with the]~~ for whose administration or execution ~~[of which he]~~ the secretary is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the ~~[citizens]~~ residents of the state;

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

(8) prepare an annual budget of the department;

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

(a) minimize or eliminate duplication of

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services and jurisdictional conflicts;

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

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, [~~record-keeping~~] recordkeeping and related clerical assistance to administratively attached agencies;

(10) develop and implement a departmental plan to provide SHPAC→full←SHPAC SHPAC→meaningful←SHPAC access to state programs for individuals with limited English proficiency that includes:

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

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

(c) the cost, including competitive salary structures for employees with multilingual proficiencies, to implement the departmental plan to provide SHPAC→full←SHPAC SHPAC→meaningful←SHPAC language access to state programs; and

(d) submitting an annual report to the governor and the legislative finance committee regarding the

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implementation of the department's language access plan;

SHPAC → ~~provided that the legislative finance committee and the department of finance and administration shall not grant budget adjustment request authority to a department that does not submit an annual report to the governor and the legislative finance committee;~~ ← SHPAC

[~~(10)~~] (11) appoint, with the governor's consent, a "director" for each division [~~a "director"~~]. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary;

[~~(11)~~] (12) give bond in the penal sum of twenty-five thousand dollars (\$25,000) and require directors to each give bond in the penal sum of ten thousand dollars (\$10,000) conditioned upon the faithful performance of duties, as provided in the Surety Bond Act. The department shall pay the costs of [~~such~~] these bonds; and

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

C. The secretary may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including but not limited to United States government funds, available to the department to carry

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out its programs, duties or services.

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

E. The secretary may make and adopt such reasonable [~~and~~] procedural rules [~~and regulations~~] as may be necessary to carry out the duties of the department and its divisions. No rule [~~or regulation~~] promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no [~~regulation~~] rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by [~~him~~] the secretary. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the [~~regulation~~] rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed [~~regulation~~] rule or proposed amendment or repeal of an existing [~~regulation~~] rule may be obtained shall be published once at least thirty days prior to the hearing

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date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules [~~and regulations~~] shall be filed in accordance with the State Rules Act.

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

**SECTION 2. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2021.