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HOUSE BILL 22

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Patricia Roybal Caballero and Antoinette Sedillo Lopez and
Kay Bounkeua and Mimi Stewart

AN ACT

RELATING TO GOVERNMENTAL ACCESSIBILITY; REQUIRING ALL STATE
DEPARTMENTS TO PROVIDE MEANINGFUL ACCESS TO STATE PROGRAMS FOR
INDIVIDUALS WITH LIMITED PROFICIENCY IN ENGLISH; MAKING AN
APPROPRIATION.

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, as amended) is amended to read:

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

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

B. To perform the secretary's duties, the secretary

1 has every power expressly enumerated in the laws, whether
2 granted to the secretary or the department or any division of
3 the department, except where authority conferred upon any
4 division is explicitly exempted from the secretary's authority
5 by statute. In accordance with these provisions, the secretary
6 shall:

7 (1) except as otherwise provided in the
8 Executive Reorganization Act, exercise general supervisory and
9 appointing authority over all department employees, subject to
10 any applicable personnel laws and regulations;

11 (2) delegate authority to subordinates as the
12 secretary deems necessary and appropriate, clearly delineating
13 such delegated authority and the limitations thereto;

14 (3) organize the department into those
15 organizational units the secretary deems will enable it to
16 function most efficiently, subject to any provisions of law
17 requiring or establishing specific organizational units;

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

22 (5) take administrative action by issuing
23 orders and instructions, not inconsistent with the law, to
24 assure implementation of and compliance with the provisions of
25 law for whose administration or execution the secretary is

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1 responsible and to enforce those orders and instructions by
2 appropriate administrative action or actions in the courts;

3 (6) conduct research and studies that will
4 improve the operations of the department and the provision of
5 services to the residents of the state;

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

11 (8) prepare an annual budget of the
12 department;

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

16 (a) minimize or eliminate duplication of
17 services and jurisdictional conflicts;

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

20 (c) resolve by agreement the manner and
21 extent to which the department shall provide budgeting,
22 recordkeeping and related clerical assistance to
23 administratively attached agencies;

24 (10) implement, as much as legally
25 permissible, the strategic plan developed by the sustainable

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underscored material = new
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1 economy task force as provided in Section [~~2 of this 2021 act~~]
2 9-15-59 NMSA 1978;

3 (11) develop and implement a departmental plan
4 to provide meaningful access to state programs for individuals
5 with limited English proficiency that includes:

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

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

13 (c) the cost, including competitive
14 salary structures for employees with multilingual
15 proficiencies, to implement the departmental plan to provide
16 meaningful language access to state programs; and

17 (d) submission of an annual report to
18 the governor and the legislative finance committee regarding
19 the implementation of the department's language access plan;

20 [~~(11)~~] (12) appoint, with the governor's
21 consent, a "director" for each division. These appointed
22 positions are exempt from the provisions of the Personnel Act.
23 Persons appointed to these positions shall serve at the
24 pleasure of the secretary;

25 [~~(12)~~] (13) give bond in the penal sum of
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underscored material = new
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1 twenty-five thousand dollars (\$25,000) and require directors to
2 each give bond in the penal sum of ten thousand dollars
3 (\$10,000) conditioned upon the faithful performance of duties,
4 as provided in the Surety Bond Act. The department shall pay
5 the costs of these bonds; and

6 [~~(13)~~] (14) require performance bonds of such
7 department employees and officers as the secretary deems
8 necessary, as provided in the Surety Bond Act. The department
9 shall pay the costs of these bonds.

10 C. The secretary may apply for and receive, with
11 the governor's approval, in the name of the department any
12 public or private funds, including [~~but not limited to~~] United
13 States government funds, available to the department to carry
14 out its programs, duties or services.

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

20 E. The secretary may make and adopt such reasonable
21 procedural rules as may be necessary to carry out the duties of
22 the department and its divisions. No rule promulgated by the
23 director of any division in carrying out the functions and
24 duties of the division shall be effective until approved by the
25 secretary unless otherwise provided by statute. Unless

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underscored material = new
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1 otherwise provided by statute, no rule affecting any person or
2 agency outside the department shall be adopted, amended or
3 repealed without a public hearing on the proposed action before
4 the secretary or a hearing officer designated by the secretary.
5 The public hearing shall be held in Santa Fe unless otherwise
6 permitted by statute. Notice of the subject matter of the
7 rule, the action proposed to be taken, the time and place of
8 the hearing, the manner in which interested persons may present
9 their views and the method by which copies of the proposed rule
10 or proposed amendment or repeal of an existing rule may be
11 obtained shall be published once at least thirty days prior to
12 the hearing date in a newspaper of general circulation and
13 mailed at least thirty days prior to the hearing date to all
14 persons who have made a written request for advance notice of
15 hearing. All rules shall be filed in accordance with the State
16 Rules Act.

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

22 SECTION 2. APPROPRIATION.--Fifty thousand dollars
23 (\$50,000) is appropriated from the general fund to the
24 department of finance and administration for expenditure in
25 fiscal year 2023 and subsequent fiscal years for the

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underscoring material = new
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1 development of a language access plan for state executive
2 agencies, including language use analytics of New Mexico's
3 population. Any unexpended or unencumbered balance remaining
4 at the end of a fiscal year shall not revert to the general
5 fund.

6 SECTION 3. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2022.