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AN ACT

RELATING TO GOVERNMENTAL ACCESSIBILITY; REQUIRING ALL STATE DEPARTMENTS TO PROVIDE MEANINGFUL 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, 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 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 is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

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

1 (2) delegate authority to subordinates as
2 the secretary deems necessary and appropriate, clearly
3 delineating such delegated authority and the limitations
4 thereto;

5 (3) organize the department into those
6 organizational units the secretary deems will enable it to
7 function most efficiently, subject to any provisions of law
8 requiring or establishing specific organizational units;

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

13 (5) take administrative action by issuing
14 orders and instructions, not inconsistent with the law, to
15 assure implementation of and compliance with the provisions
16 of law for whose administration or execution the secretary is
17 responsible and to enforce those orders and instructions by
18 appropriate administrative action or actions in the courts;

19 (6) conduct research and studies that will
20 improve the operations of the department and the provision of
21 services to the residents of the state;

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

1 administration;

2 (8) prepare an annual budget of the
3 department;

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

7 (a) minimize or eliminate duplication
8 of services and jurisdictional conflicts;

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

11 (c) resolve by agreement the manner and
12 extent to which the department shall provide budgeting,
13 recordkeeping and related clerical assistance to
14 administratively attached agencies;

15 (10) implement, as much as legally
16 permissible, the strategic plan developed by the sustainable
17 economy task force as provided in Section 9-15-59 NMSA 1978;

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

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

25 (b) the department's plan to meet the

1 needs identified in the assessment, including interpretation
2 and translation services and bilingual staffing;

3 (c) the cost, including competitive
4 salary structures for employees with multilingual
5 proficiencies, to implement the departmental plan to provide
6 meaningful language access to state programs; and

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

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

15 (13) give bond in the penal sum of twenty-
16 five thousand dollars (\$25,000) and require directors to each
17 give bond in the penal sum of ten thousand dollars (\$10,000)
18 conditioned upon the faithful performance of duties, as
19 provided in the Surety Bond Act. The department shall pay
20 the costs of these bonds; and

21 (14) require performance bonds of such
22 department employees and officers as the secretary deems
23 necessary, as provided in the Surety Bond Act. The
24 department shall pay the costs of these bonds.

25 C. The secretary may apply for and receive, with

1 the governor's approval, in the name of the department any
2 public or private funds, including United States government
3 funds, available to the department to carry out its programs,
4 duties or services.

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

10 E. The secretary may make and adopt such
11 reasonable procedural rules as may be necessary to carry out
12 the duties of the department and its divisions. No rule
13 promulgated by the director of any division in carrying out
14 the functions and duties of the division shall be effective
15 until approved by the secretary unless otherwise provided by
16 statute. Unless otherwise provided by statute, no rule
17 affecting any person or agency outside the department shall
18 be adopted, amended or repealed without a public hearing on
19 the proposed action before the secretary or a hearing officer
20 designated by the secretary. The public hearing shall be
21 held in Santa Fe unless otherwise permitted by statute.

22 Notice of the subject matter of the rule, the action proposed
23 to be taken, the time and place of the hearing, the manner in
24 which interested persons may present their views and the
25 method by which copies of the proposed rule or proposed

1 amendment or repeal of an existing rule may be obtained shall
2 be published once at least thirty days prior to the hearing
3 date in a newspaper of general circulation and mailed at
4 least thirty days prior to the hearing date to all persons
5 who have made a written request for advance notice of
6 hearing. All rules shall be filed in accordance with the
7 State Rules Act.

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

14 SECTION 2. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2022. _____

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