

1 SENATE BILL 105

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

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8 FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

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10 AN ACT

11 RELATING TO GOVERNMENTAL ACCESSIBILITY; REQUIRING ALL STATE  
12 DEPARTMENTS TO PROVIDE FULL ACCESS TO STATE PROGRAMS FOR  
13 INDIVIDUALS WITH LIMITED PROFICIENCY IN ENGLISH.

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

16 SECTION 1. Section 9-1-5 NMSA 1978 (being Laws 1977,  
17 Chapter 248, Section 5) is amended to read:

18 "9-1-5. SECRETARY--DUTIES AND GENERAL POWERS.--

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

24 B. To perform [~~his~~] the secretary's duties, the  
25 secretary has every power expressly enumerated in the laws,

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1 whether granted to the secretary or the department or any  
2 division of the department, except where authority conferred  
3 upon any division [~~therein~~] is explicitly exempted from the  
4 secretary's authority by statute. In accordance with these  
5 provisions, the secretary shall:

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

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

14 (3) organize the department into those  
15 organizational units [~~he~~] 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 [~~his~~] 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 [~~with the~~] for whose administration or execution [~~of which~~

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1 he] the secretary is responsible and to enforce those orders  
2 and instructions by appropriate administrative action or  
3 actions in the courts;

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

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

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

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

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

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

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

25 (10) develop and implement a departmental plan

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1 to provide full access to state programs for individuals with  
2 limited English proficiency that includes:

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

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

10 (c) the cost, including competitive  
11 salary structures for employees with multilingual  
12 proficiencies, to implement the departmental plan to provide  
13 full language access to state programs;

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

19 [~~(11)~~] (12) give bond in the penal sum of  
20 twenty-five thousand dollars (\$25,000) and require directors to  
21 each give bond in the penal sum of ten thousand dollars  
22 (\$10,000) conditioned upon the faithful performance of duties,  
23 as provided in the Surety Bond Act. The department shall pay  
24 the costs of [~~such~~] these bonds; and

25 [~~(12)~~] (13) require performance bonds of such

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1 department employees and officers as [~~he~~] the secretary deems  
2 necessary, as provided in the Surety Bond Act. The department  
3 shall pay the costs of [~~such~~] these bonds.

4 C. The secretary may apply for and receive, with  
5 the governor's approval, in the name of the department any  
6 public or private funds, including but not limited to United  
7 States government funds, available to the department to carry  
8 out its programs, duties or services.

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

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

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1 otherwise permitted by statute. Notice of the subject matter  
2 of the [~~regulation~~] rule, the action proposed to be taken, the  
3 time and place of the hearing, the manner in which interested  
4 persons may present their views and the method by which copies  
5 of the proposed [~~regulation~~] rule or proposed amendment or  
6 repeal of an existing [~~regulation~~] rule may be obtained shall  
7 be published once at least thirty days prior to the hearing  
8 date in a newspaper of general circulation and mailed at least  
9 thirty days prior to the hearing date to all persons who have  
10 made a written request for advance notice of hearing. All  
11 rules [~~and regulations~~] shall be filed in accordance with the  
12 State Rules Act.

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

18 SECTION 2. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2020.