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HOUSE BILL 404

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Brian K. Moore

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO STATE BUDGETS; PROVIDING FOR A BIENNIAL BUDGET;
LIMITING EVEN-NUMBERED-YEAR STATE AGENCY BUDGET APPROPRIATIONS
TO SUPPLEMENTALS AND DEFICIENCIES.

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

Section 1. Section 2-5-4 NMSA 1978 (being Laws 1967,
Chapter 267, Section 1) is amended to read:

"2-5-4. LEGISLATIVE FINANCE COMMITTEE--ADDITIONAL
DUTIES.--

A. The legislative finance committee, in addition
to all other duties prescribed by law, shall [~~annually~~] review
budgets and appropriations requests and the operation and
management of selected state agencies, departments and
institutions and shall make recommendations with respect
thereto to the legislature.

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1 B. To carry out the purposes of this section, the
2 legislative finance committee shall establish a budget analysis
3 division staffed with persons knowledgeable and proficient in
4 budget analysis and budget preparation.

5 C. Each state agency, department and institution
6 shall furnish to the legislative finance committee a copy of
7 its appropriation request made to the department of finance and
8 administration at the same time [~~such~~] the request is made [~~to~~
9 ~~such department~~]. Each state agency, department or institution
10 shall also furnish to the legislative finance committee and its
11 staff any other supporting information or data deemed necessary
12 to carry out the purposes of this section.

13 D. The legislative finance committee or, when it
14 deems necessary, its staff may hold such hearings and require
15 such testimony from officers and employees of each state
16 agency, department or institution as is necessary to carry out
17 the purposes of this section.

18 E. Not later than the first week of any regular
19 legislative session, the legislative finance committee shall
20 furnish a document containing its budget recommendations to
21 each member of the senate finance committee, the house
22 appropriations and finance committee and to those other members
23 of the legislature [~~which~~] who may request it. A copy shall
24 also be furnished to the governor and to the department of
25 finance and administration."

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1 Section 2. Section 6-3-6 NMSA 1978 (being Laws 1957,
2 Chapter 253, Section 7, as amended) is amended to read:

3 "6-3-6. STATE BUDGET DIVISION--PERIODIC ALLOTMENTS.--The
4 state budget division, subject to the approval of the secretary
5 of finance and administration, is authorized to provide
6 [~~regulations~~] rules for the periodic allotment of funds that
7 may be expended by any state agency. The expenditures of any
8 state agency as defined in Section [~~11-4-1.1 NMSA 1953~~] 6-3-1
9 NMSA 1978, for the first [~~six-months~~] six-month period of each
10 [~~odd-numbered~~] fiscal year in a biennium shall be limited to
11 one-half of the appropriation or approved budget, whichever is
12 less, for that fiscal year. This restriction [~~shall~~] does not
13 apply to those agencies whose operations are more efficiently
14 measured by periods other than a fiscal year, including but not
15 limited to the legislative council, legislative committees [~~the~~
16 ~~inter-tribal Indian ceremonial~~] and the New Mexico state fair.
17 Expenditures of [~~the inter-tribal Indian ceremonial and~~] the
18 New Mexico state fair shall be governed by [~~regulation~~] rule of
19 the department of finance and administration. The department
20 of finance and administration may also allow expenditure of
21 more than one-half of the appropriation or approved budget for
22 those agencies planning major expenditures for capital outlay
23 [~~in the first six months of the fiscal year which would result~~
24 ~~in over-expenditure of the first six months' allocation~~]."

25 Section 3. Section 6-3-7 NMSA 1978 (being Laws 1957,

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1 Chapter 253, Section 8, as amended) is amended to read:

2 "6-3-7. [~~ANNUAL~~] BIENNIAL OPERATING BUDGETS--SUPERVISION
3 AND CONTROL--SUBMISSION OF PROPOSED BUDGETS--APPROVAL--REVIEW
4 BY GOVERNOR.--Each state agency shall [~~annually~~], on or before
5 May 1 of each odd-numbered year, submit to the state budget
6 division of the department of finance and administration a
7 budget for the ensuing two fiscal [~~year~~] years in [~~such~~] the
8 form [~~as may be~~] prescribed by the division and containing
9 [~~such~~] information concerning the anticipated receipts,
10 expenditures and balances on hand as may be prescribed by law
11 or by rule of the state budget division. [~~Such~~] The budget
12 shall be subject to the approval of the state budget division,
13 and no expenditures shall be made by any state agency for the
14 [~~fiscal year~~] biennium covered by [~~said~~] the budget until the
15 budget [~~shall have~~] has been approved by the state budget
16 division; provided that any action by the division [~~shall be~~]
17 is subject to review and modification by the governor."

18 Section 4. Section 6-3-10 NMSA 1978 (being Laws 1955,
19 Chapter 114, Section 2, as amended) is amended to read:

20 "6-3-10. BUDGET DEFINED.--[~~The~~] "Budget" means a complete
21 statement as to the financial operation of all state agencies
22 for the [~~fiscal year~~] biennium last completed, the current
23 [~~fiscal year~~] biennium and a financial plan for the operation
24 of all state agencies for the succeeding [~~fiscal year~~]
25 biennium. The budget for the succeeding [~~fiscal year~~] biennium

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1 shall set forth in detail the following:

2 A. all proposed expenditures for the
3 administration, operation and maintenance of all state
4 agencies;

5 B. all interest and debt redemption charges;

6 C. all expenditures for capital projects to be
7 undertaken and executed;

8 D. all anticipated revenues; and

9 E. means of financing proposed expenditures."

10 Section 5. Section 6-3-11 NMSA 1978 (being Laws 1955,
11 Chapter 114, Section 3, as amended) is amended to read:

12 "6-3-11. PARTS OF THE BUDGET.--The budget shall contain
13 the following parts:

14 A. the governor's budget message;

15 B. summary statements showing the following:

16 (1) financial condition of the state
17 government at the beginning and at the end of the [~~fiscal year~~]
18 biennium last completed;

19 (2) financial condition of the state
20 government at the beginning of the current [~~fiscal year~~]
21 biennium and condition anticipated at the end of the current
22 [~~fiscal year~~] biennium;

23 (3) anticipated financial condition of the
24 state government at the beginning and end of the succeeding
25 [~~fiscal year~~] biennium;

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1 (4) condition of all funds for the [~~fiscal~~
2 ~~year~~] biennium last completed, the current [~~fiscal-year~~
3 biennium and the succeeding [~~fiscal-year~~] biennium, as follows:

4 (a) balance or anticipated balance at
5 the beginning of the [~~fiscal-year~~] biennium;

6 (b) balance or anticipated balance at
7 the end of the [~~fiscal-year~~] biennium;

8 (c) revenue or anticipated revenue
9 during the [~~fiscal-year~~] biennium;

10 (d) source of revenue or anticipated
11 revenue during the [~~fiscal-year~~] biennium; and

12 (e) expenditures or anticipated
13 expenditures during the [~~fiscal-year~~] biennium;

14 (5) the bonded indebtedness, debts authorized,
15 debts redeemed, interest requirements and the condition of
16 sinking funds;

17 (6) appropriations recommended by the governor
18 compared with appropriations for the [~~fiscal-year~~] biennium
19 last completed and the current [~~fiscal-year~~] biennium. Any
20 increase or decrease in the recommended appropriation shall be
21 explained;

22 (7) anticipated revenue for the succeeding
23 [~~fiscal-year~~] biennium, classified according to source of
24 revenue and compared with revenues for the [~~fiscal-year~~]
25 biennium last completed and anticipated revenue for the current

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1 ~~[fiscal year]~~ biennium;

2 (8) other information necessary to make known
3 in practicable detail the financial operation of the state
4 government; and

5 (9) if anticipated revenue is less than the
6 total of all appropriations recommended in any ~~[fiscal year]~~
7 biennium, recommendations as to how the deficit shall be met;

8 C. a summary statement of requested appropriations
9 by state agencies and recommendations of the state budget
10 division concerning ~~[such]~~ the requested appropriations; and

11 D. an appropriation bill recommended by the
12 governor. ~~[Such]~~ The bill shall follow budget classification
13 and shall be stated in lump sums according to category,
14 function or purpose of each agency."

15 Section 6. Section 6-3-18 NMSA 1978 (being Laws 1955,
16 Chapter 114, Section 9, as amended by Laws 1999, Chapter 5,
17 Section 10 and also by Laws 1999, Chapter 15, Section 10) is
18 amended to read:

19 "6-3-18. BUDGET FORMS.--

20 A. On or before June 15 of each even-numbered year,
21 the state budget division shall send to each state agency
22 biennial budget forms that provide for the collection of the
23 following information:

24 ~~[A.]~~ (1) revenue or anticipated revenue from
25 all sources for the ~~[fiscal year]~~ biennium last completed, the

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1 current [~~fiscal year~~] biennium and [~~for~~] the succeeding [~~fiscal~~
2 ~~year~~] biennium, including [~~among other things~~]:

3 [~~(1)~~] (a) grants from the federal
4 government;

5 [~~(2)~~] (b) gifts and grants from private
6 sources;

7 [~~(3)~~] (c) income from investments;

8 [~~(4)~~] (d) proceeds from sale of bonds or
9 other instruments of indebtedness;

10 [~~(5)~~] (e) income from sale of land;

11 [~~(6)~~] (f) income from sale of personal
12 property;

13 [~~(7)~~] (g) income from lease of land or
14 lease of personal property;

15 [~~(8)~~] (h) income from services;

16 [~~(9)~~] (i) income from fees, licenses,
17 fines, penalties, tuition, royalties and other charges;

18 [~~(10)~~] (j) income from athletic
19 activities and related enterprises; and

20 [~~(11)~~] (k) income from each tax
21 collected;

22 [~~B.~~] (2) expenditures or anticipated
23 expenditures for the current [~~fiscal year~~] biennium and for the
24 [~~two~~] succeeding [~~fiscal years~~] biennium, including [~~among~~
25 ~~other things~~]:

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1 [~~1~~] (a) capital expenditures
2 consisting of: [~~a~~] 1) additions to plant or office; [~~b~~] 2)
3 repairs and replacements; [~~e~~] 3) permanent equipment; and
4 [~~d~~] 4) other; and

5 [~~2~~] (b) operational expenditures
6 consisting of: [~~a~~] 1) operation and maintenance of
7 institution, office or building; [~~b~~] 2) supplies and
8 equipment; [~~e~~] 3) personal services; [~~d~~] 4) travel; and
9 [~~e~~] 5) other;

10 [~~G. appropriation~~] (3) appropriations
11 requested for the succeeding [~~fiscal year~~] biennium, with a
12 statement as to the functions and activities of each agency,
13 division and bureau;

14 [~~D.~~] (4) if increased appropriations are
15 requested, the reason therefor; and

16 [~~E.~~] (5) citation of statutory authority for
17 functions and activities of the agency, a summary statement as
18 to the workload of the agency and such other information as
19 [~~is~~] specified by the state budget division.

20 B. On or before June 15 of each odd-numbered year,
21 the state budget division shall send to each state agency
22 supplemental budget forms to be submitted by state agencies
23 that plan to request a deficiency appropriation or a
24 supplemental appropriation for the remainder of the biennium.
25 The state budget division shall prescribe the information

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1 required for each deficiency or supplemental appropriation
2 request."

3 Section 7. Section 6-3-19 NMSA 1978 (being Laws 1955,
4 Chapter 114, Section 10, as amended by Laws 1999, Chapter 5,
5 Section 11 and also by Laws 1999, Chapter 15, Section 11) is
6 amended to read:

7 "6-3-19. AGENCIES TO COMPLETE BUDGET FORMS.--Each state
8 agency shall fill out the budget forms provided for in Section
9 6-3-18 and 6-3A-7 NMSA 1978 in the manner prescribed by the
10 state budget division. [~~Each state agency, in completing the~~
11 ~~budget forms, shall include information for all divisions,~~
12 ~~subdivisions and offices of the agency. Related agencies, upon~~
13 ~~approval of the state budget division, may join in submitting~~
14 ~~one set of budget forms. Completed budget forms shall be~~
15 ~~returned to the state budget division not later than September~~
16 ~~1 in each year.]"~~

17 Section 8. Section 6-3-20 NMSA 1978 (being Laws 1955,
18 Chapter 114, Section 11, as amended) is amended to read:

19 "6-3-20. REVIEW OF BUDGET FORMS.--The state budget
20 division shall review the completed budget forms of all state
21 agencies and [~~shall~~] include recommendations concerning the
22 requested appropriation in the tentative budget. Prior to
23 submission of the tentative budget to the governor, any state
24 agency may be given an informal hearing by the state budget
25 division concerning recommendation of the division pertaining

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1 to the requested appropriation of [~~such~~] that agency and
2 [~~shall~~] be given [~~such~~] a hearing if the state budget division
3 proposes to decrease the requested appropriation."

4 Section 9. Section 6-3-21 NMSA 1978 (being Laws 1955,
5 Chapter 114, Section 12, as amended) is amended to read:

6 "6-3-21. PREPARATION OF THE BUDGET.--

7 A. The governor shall prepare the budget and submit
8 it to the legislative finance committee and each member of the
9 legislature not later than [~~January 5 in even-numbered years~~
10 ~~and not later than~~] January 10 in odd-numbered years. A
11 supplemental budget may be submitted not later than January 5
12 in even-numbered years. In the preparation of the budget the
13 governor may:

14 (1) change the tentative budget by adding new
15 items, increasing or decreasing or eliminating items;

16 (2) obtain advice and assistance from any
17 state agency; and

18 (3) hold hearings on the budget.

19 B. Any budget hearings conducted by the governor
20 shall be open to the public. The governor may require the
21 attendance of any head of an agency, whether elective or
22 appointive. At the hearings, any officer or agency may protest
23 budget items."

24 Section 10. Section 6-3A-6 NMSA 1978 (being Laws 1999,
25 Chapter 5, Section 6 and Laws 1999, Chapter 15, Section 6, as

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1 amended) is amended to read:

2 "6-3A-6. SCHEDULE FOR SUBMISSION OF PERFORMANCE-BASED
3 PROGRAM BUDGET REQUESTS.--

4 A. No later than September 1 of each even-numbered
5 year, agencies shall submit performance-based program budget
6 requests for the subsequent fiscal year to the division and to
7 the committee.

8 B. No later than September 1 of each odd-numbered
9 year, agencies may submit requests for supplemental and
10 deficiency appropriations."

11 Section 11. Section 6-3A-7 NMSA 1978 (being Laws 1999,
12 Chapter 5, Section 7 and Laws 1999, Chapter 15, Section 7, as
13 amended) is amended to read:

14 "6-3A-7. PERFORMANCE-BASED PROGRAM BUDGET REQUESTS.--

15 A. The division, in consultation with the
16 committee, shall develop instructions for those agencies
17 required to submit performance-based program budget requests.
18 The instructions shall be sent to the agencies on or before
19 June 15 of each even-numbered year and shall be in addition to
20 any other forms required by Section 6-3-18 NMSA 1978. The
21 instructions shall require that performance-based program
22 budget requests contain the following:

23 (1) a summary of each approved program,
24 including a justification for the program;

25 (2) for each approved program, an evaluation

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1 of the agency's progress in meeting the performance targets.
2 The evaluation shall be developed as prescribed in the budget
3 instructions;

4 (3) for each approved program, the outputs,
5 outcomes, baseline data, performance measures and historic and
6 proposed performance targets;

7 (4) if a performance audit has been conducted
8 on an approved program during either the present or any of the
9 immediately preceding two fiscal years, any responses that the
10 agency may have to the audit and any actions that the agency
11 has taken as a result of the audit; and

12 (5) any other information that the division
13 believes may be useful to the division or the legislature in
14 developing a budget for the agency.

15 B. On or before September 1 of each [year]
16 biennium, each agency shall submit a performance-based program
17 budget request to the division and the committee in the form
18 and manner prescribed in the budget instructions. [~~Budget~~
19 ~~requests submitted pursuant to this section shall be in lieu of~~
20 ~~those required by Section 6-3-19 NMSA 1978]."~~

21 Section 12. Section 6-5-10 NMSA 1978 (being Laws 1994,
22 Chapter 11, Section 1, as amended) is amended to read:

23 "6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--
24 COMPLIANCE WITH FEDERAL RULES.--

25 A. Except as provided in [~~Subsections B and C~~]

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1 Subsection B of this section, all unreserved undesignated fund
2 balances in reverting funds and accounts as reflected in the
3 central financial reporting and accounting system as of June 30
4 of the second year of the biennium shall revert by September 30
5 to the general fund. The division may adjust the reversion
6 within forty-five days of release of the audit report for that
7 [~~fiscal year~~] biennium.

8 B. The director of the division may modify a
9 reversion required pursuant to Subsection A of this section if
10 the reversion would violate federal law or rules pertaining to
11 supplanting of state funds with federal funds or other
12 applicable federal provisions."

13 Section 13. Section 6-10-1 NMSA 1978 (being Laws 1903,
14 Chapter 108, Section 7, as amended) is amended to read:

15 "6-10-1. FISCAL YEAR AND BIENNIA DESIGNATED.--

16 A. The fiscal year for the state and for the
17 counties, cities, towns, villages and school districts thereof
18 begins on July 1 and ends on June 30. The year beginning on
19 July 1, 1925 shall be known as the fourteenth fiscal year.

20 B. Beginning July 1, 1994, the fiscal year shall be
21 cited by citing the calendar year in which the fiscal year
22 ends. The fiscal year beginning July 1, 1994 shall be fiscal
23 year 1995.

24 C. Beginning July 1, 2007, the state budget shall
25 be appropriated biennially, which shall be cited by citing the

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1 two fiscal years of the biennium. The biennium beginning July
2 1, 2007 shall be the 2008-2009 biennium."

3 Section 14. Section 6-10-4 NMSA 1978 (being Laws 1963,
4 Chapter 35, Section 1, as amended) is amended to read:

5 "6-10-4. PAYMENT OF OBLIGATIONS OF PRIOR YEARS FROM
6 CURRENT YEAR APPROPRIATIONS.--

7 A. Except as provided in Subsection B of this
8 section, appropriations made for a specific fiscal year or
9 specific biennium may not be used for paying obligations of any
10 prior fiscal year or prior biennium except upon approval of the
11 department. As a condition to the approval, the department
12 shall certify that there existed in the affected state agency's
13 budget at the end of the fiscal year or biennium sufficient
14 funds, including uncollected earned revenue, to pay the
15 obligation had the bill been presented prior to the end of that
16 fiscal year. The department shall make quarterly reports to
17 the legislative finance committee concerning all authorizations
18 of payment.

19 B. Appropriations to the human services department
20 for medicaid payments may be expended by that department for
21 medicaid obligations for prior fiscal years or biennia."

22 Section 15. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is January 1, 2007.