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HOUSE BILL 37  
44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY  
Max Coll

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT  
RELATING TO STATE BUDGETS; ENACTING THE ACCOUNTABILITY IN  
GOVERNMENT ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF  
THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 8 of this act may be cited as the "Accountability in  
Government Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE. --

A. The legislature finds that agencies should:

- (1) be granted sufficient statutory authority  
and flexibility to use their resources in the best possible  
way in order to better serve the citizens of New Mexico  
through the efficient delivery of services and products and  
the effective administration of governmental programs;

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1 (2) be held accountable for the services and  
2 products they deliver in accordance with clearly defined  
3 missions, goals and objectives;

4 (3) develop performance measures for  
5 evaluating performance and assessing progress in achieving  
6 goals and objectives, and those measures should be integrated  
7 into the planning and budgeting process and maintained on an  
8 ongoing basis;

9 (4) have incentives to deliver services and  
10 products in the most efficient and effective manner and, if  
11 appropriate, recommend the restructuring of ineffective  
12 programs or the elimination of unnecessary programs;

13 (5) have their performance in achieving  
14 desired outputs and outcomes and in efficiently operating  
15 programs measured and evaluated in an effort to improve  
16 program coordination, eliminate duplicate programs or  
17 activities and provide better information to the governor, the  
18 legislature and the public; and

19 (6) strive to keep the citizens of this state  
20 informed of the public benefits derived from the delivery of  
21 agency services and products and of the progress agencies are  
22 making with regard to improving performance.

23 B. The purpose of the Accountability in Government  
24 Act is to provide for more cost-effective and responsive  
25 government services by using the state budget process and

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1 defined outputs, outcomes and performance measures to annually  
2 evaluate the performance of state government programs.

3 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
4 Accountability in Government Act:

5 A. "agency" means a branch, department,  
6 institution, board, bureau, commission, district or committee  
7 of the state;

8 B. "approved program" means a program included in  
9 an approved list of programs issued by the division pursuant  
10 to Section 4 of the Accountability in Government Act;

11 C. "baseline data" means the current level of a  
12 program's performance measures established pursuant to  
13 guidelines established by the division in consultation with  
14 the committee;

15 D. "committee" means the legislative finance  
16 committee;

17 E. "division" means the state budget division of  
18 the department of finance and administration;

19 F. "outcome" means the measurement of the actual  
20 impact or public benefit of a program;

21 G. "performance-based program budget" means a  
22 budget that identifies a total allowed expenditure for a  
23 program and includes performance measures, performance  
24 standards and program evaluations;

25 H. "performance measure" means a quantitative or

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1 qualitative indicator used to assess the output or outcome of  
2 an approved program;

3 I. "performance standard" means a targeted level  
4 of an output or outcome as indicated by performance measures;  
5 and

6 J. "program" means a set of activities undertaken  
7 in accordance with a plan of action organized to realize  
8 identifiable goals and objectives based on legislative  
9 authorization.

10 Section 4. [NEW MATERIAL] PROGRAM IDENTIFICATION. --

11 A. Prior to April 1 of each year, each agency that  
12 is required to submit a performance-based program budget  
13 request in the subsequent fiscal year shall identify and  
14 submit to the division and committee a list of agency  
15 programs. The division, in consultation with the committee  
16 and the agency, shall review the list, make any necessary  
17 changes and issue an approved list within thirty days of  
18 receipt. The division shall send a copy of the approved list  
19 to the committee.

20 B. The program list submitted by an agency shall  
21 be accompanied by:

22 (1) the constitutional or statutory direction  
23 and authority for each program;

24 (2) identification of the users of each  
25 program;

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- 1 (3) the purpose of each program or the
- 2 benefit derived by the users of the program;
- 3 (4) direct and indirect cost of each program;
- 4 and
- 5 (5) information on fees collected and the
- 6 adequacy of those fees in funding each program for which the
- 7 fees are collected.

8 Section 5. [NEW MATERIAL] PERFORMANCE MEASURES. --

9 A. Prior to May 1 of each year, the division, in  
10 consultation with the committee, shall develop instructions  
11 for the development of performance measures for evaluating  
12 approved programs.

13 B. Prior to June 1 of each year, each agency  
14 required to submit a performance-based budget request in the  
15 subsequent fiscal year shall submit to the division the  
16 proposed performance measures for each approved program. The  
17 agency shall identify the outputs produced by each program,  
18 the outcomes resulting from each program and baseline data  
19 associated with each performance measure; and it shall submit  
20 documentation regarding the validity, reliability and  
21 appropriateness of each performance measure. The division, in  
22 consultation with the committee and the agency, shall review  
23 the proposed performance measures, make necessary changes and  
24 issue approved performance measures within thirty days of  
25 receipt. The division shall send a copy of the approved

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1 performance measures to the committee.

2 Section 6. [NEW MATERIAL] SCHEDULE FOR SUBMISSION OF  
3 PERFORMANCE-BASED PROGRAM BUDGET REQUESTS. -- State agencies  
4 shall submit performance-based program budget requests  
5 pursuant to a schedule to be developed jointly by the division  
6 and the committee. No later than August 1, 1999 and each  
7 August 1 thereafter, the agencies shall submit performance-  
8 based program budget requests for the subsequent fiscal year  
9 to the division and to the committee based on that schedule.

10 Section 7. [NEW MATERIAL] PERFORMANCE-BASED PROGRAM  
11 BUDGET REQUESTS. --

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

- 20 (1) a budget request for each approved  
21 program by personnel services and benefits, contractual  
22 services and other cost categories;
- 23 (2) a summary of each approved program,  
24 including a justification for the program;
- 25 (3) for each approved program, an evaluation

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

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

7 (5) 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 (6) 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 August 1 of each year, each agency  
16 required to submit a performance-based program budget request  
17 shall submit the request to the division and the committee in  
18 the form and manner prescribed in the budget instructions.  
19 Budget requests submitted pursuant to this section shall be in  
20 lieu of those required by Section 6-3-19 NMSA 1978.

21 Section 8. [NEW MATERIAL] PERFORMANCE-BASED PROGRAM  
22 BUDGETS. --

23 A. For each agency required to submit a  
24 performance-based program budget request, the governor's  
25 proposed budget submitted pursuant to Section 6-3-21 NMSA 1978

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1 and the committee's budget recommendation pursuant to Section  
2 2-5-4 NMSA 1978 shall contain:

3 (1) a budget recommendation for each approved  
4 program;

5 (2) a summary, including the outputs and  
6 outcomes, of each approved program;

7 (3) performance measures and performance  
8 standards for each approved program;

9 (4) an evaluation of the performance of each  
10 approved program; and

11 (5) any other criteria deemed relevant by the  
12 governor or the committee.

13 B. For each agency required to submit a  
14 performance-based program budget request, the governor's  
15 proposed budget submitted pursuant to Section 6-3-21 NMSA 1978  
16 and the committee's budget recommendation pursuant to Section  
17 2-5-4 NMSA 1978 may contain recommendations regarding  
18 incentives or disincentives for agency performance.

19 Incentives or disincentives may apply to all or part of an  
20 agency and may apply to any or all of an agency's approved  
21 programs.

22 C. Incentives may include additional:

23 (1) flexibility in budget management;

24 (2) flexibility in salary and position

25 management; and



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1 (3) appropriations or the retention of a  
2 portion of unexpended and unencumbered balances of  
3 appropriations to be used for nonrecurring purposes such as  
4 employee training or productivity enhancements, including  
5 technology and other improvements.

6 D. Disincentives may include:

7 (1) mandatory periodic reports to the  
8 governor and appropriate legislative committees on the  
9 agency's progress in meeting performance standards;

10 (2) mandatory periodic public hearings to  
11 report on the agency's progress in meeting performance  
12 standards;

13 (3) elimination or restructuring of a program  
14 that may include the transfer of the program or contracting  
15 all or a portion of the program;

16 (4) restrictions to or reductions in the  
17 spending authority otherwise provided in performance-based  
18 program budgeting; and

19 (5) reductions of managerial salaries.

20 E. Pursuant to Section 6-3-7 NMSA 1978, the  
21 division shall prescribe forms and approve operating budgets  
22 for agencies funded by performance-based program budgets;  
23 however, the division shall not take any action that hinders  
24 an agency from operating under a performance-based  
25 appropriation or that is otherwise inconsistent with the

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1 purposes of the Accountability in Government Act.  
2 Notwithstanding the provisions of Sections 6-3-23 through  
3 6-3-25 NMSA 1978, an agency may transfer funds between budget  
4 categories within a performance-based program or between  
5 organizational units of the agency that administer a  
6 performance-based program without the approval of the  
7 division; however, the agency shall give notice of the  
8 transfer to the division and the committee. Absent specific  
9 authorization in the general appropriation act or other act of  
10 the legislature, no funds may be transferred either into or  
11 out of a performance-based program budget.

12 F. Performance-based program budgets shall not be  
13 used as vehicles to contract, outsource or privatize the  
14 functions of government. Absent specific authorization in the  
15 general appropriation act or other act of the legislature, no  
16 appropriation for a performance-based program shall be used to  
17 contract, outsource, privatize or otherwise transfer any duty  
18 or power given by law to an agency.

19 G. Final approval of all programs, performance  
20 measures and performance standards remains with the  
21 legislature through the enactment of the general appropriation  
22 act.

23 H. No later than July 1 of the year in which a  
24 state agency begins operating under a performance-based  
25 program budget, the agency shall develop, in consultation with

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1 the division, a plan for monitoring and reviewing the agency's  
2 programs to ensure that performance data are maintained and  
3 supported by agency records.

4 Section 9. Section 6-3-15 NMSA 1978 (being Laws 1955,  
5 Chapter 114, Section 6, as amended) is amended to read:

6 "6-3-15. STATE BUDGET DIVISION DIRECTOR--POWERS AND  
7 DUTIES.--The director of the state budget division shall:

8 A. administer the provisions of Sections [ ~~11-4-1.1~~  
9 ~~through 11-4-7.8 NMSA 1953~~] 6-3-1 through 6-3-22 NMSA 1978 and  
10 make rules and regulations necessary in [ ~~such~~] that  
11 administration;

12 B. prepare a tentative budget and submit [ ~~such~~  
13 ~~tentative budget~~] it to the governor [ ~~not later than January~~  
14 ~~2~~];

15 C. assist the governor in the preparation of the  
16 budget;

17 D. obtain from each state agency information on  
18 budgetary and financial problems, including [ ~~but not limited~~  
19 ~~to~~] costs of operation, past income and expenditures and  
20 present financial condition;

21 E. require periodic reports from all state  
22 agencies giving detailed information regarding applications  
23 for federal money or federal grants-in-aid or regarding  
24 federal money or federal grants-in-aid received, including  
25 [ ~~but not limited to~~] details of programs, matching

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1 requirements, personnel requirements, salary provisions and  
2 program numbers as indicated in the catalog of federal  
3 domestic assistance of the federal funds applied for and of  
4 those received;

5 F. review data submitted by any state agency for  
6 use in the budget;

7 G. supervise the printing of the budget;

8 H. cause the budget to be indexed;

9 I. examine for budgetary purposes, if he deems it  
10 necessary, all bids, contracts, plans, specifications,  
11 blueprints, records, invoices, documents and correspondence  
12 relating to the enlarging, maintenance and operation of state  
13 institutions; and

14 J. through his agents and employees, visit each  
15 state agency whenever it is necessary to determine the  
16 financial needs of the agency. "

17 Section 10. Section 6-3-18 NMSA 1978 (being Laws 1955,  
18 Chapter 114, Section 9, as amended) is amended to read:

19 "6-3-18. BUDGET FORMS. -- On or before [ ~~July~~ June 15 of  
20 each year, the state budget division shall send to each state  
21 agency forms [ ~~which~~ that provide for the following  
22 information:

23 A. revenue or anticipated revenue, from all  
24 sources for the fiscal year last completed, the current fiscal  
25 year and for the succeeding fiscal year, including among other

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things:

- (1) grants from the federal government;
- (2) gifts and grants from private sources;
- (3) income from investments;
- (4) proceeds from sale of bonds or other instruments of indebtedness;
- (5) income from sale of land;
- (6) income from sale of personal property;
- (7) income from lease of land or lease of personal property;
- (8) income from services;
- (9) income from fees, licenses, fines, penalties, tuition, royalties and other charges;
- (10) income from athletic activities and related enterprises; and
- (11) income from each tax collected;

B. expenditures or anticipated expenditures for the ~~[fiscal year last completed, the]~~ current fiscal year and for the two succeeding fiscal ~~[year]~~ years, including among other things:

- (1) capital expenditures consisting of:
  - (a) additions to plant or office;
  - (b) repairs and replacements;
  - (c) permanent equipment; and
  - (d) other; and

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

8 C. appropriation requested for the succeeding  
9 fiscal year, with a statement as to the functions and  
10 activities of each agency, division and bureau;

11 D. if increased appropriations are requested, the  
12 reason therefor; and

13 E. citation of statutory authority for functions  
14 and activities of the agency, a summary statement as to the  
15 workload of the agency and such other information as is  
16 specified by the state budget division. "

17 Section 11. Section 6-3-19 NMSA 1978 (being Laws 1955,  
18 Chapter 114, Section 10, as amended) is amended to read:

19 "6-3-19. AGENCIES TO COMPLETE BUDGET FORMS. -- Each state  
20 agency shall fill out the budget forms provided for in Section  
21 [~~11-4-7.4 NMSA 1953~~] 6-3-18 NMSA 1978 in the manner prescribed  
22 by the state budget division. Each state agency, in  
23 completing the budget forms, shall include information for all  
24 divisions, subdivisions and offices of the agency. Related  
25 agencies, upon approval of the state budget division, may join

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1 in submitting one set of budget forms. Completed budget forms  
2 shall be returned to the state budget division not later than  
3 ~~[September]~~ August 1 in each year. "

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

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

7 A. The governor shall prepare the budget and  
8 ~~[shall]~~ submit ~~[the budget]~~ it to the ~~[legislature not later~~  
9 ~~than the 25th legislative day of each regular session]~~  
10 legislative finance committee and each member of the  
11 legislature not later than October 1 of each year. In the  
12 preparation of the budget the governor may:

13 ~~[(a)]~~ (1) change the tentative budget by  
14 adding new items, increasing or decreasing or eliminating  
15 items;

16 ~~[(b)]~~ (2) obtain advice and assistance from  
17 any state agency; and

18 ~~[(c)]~~ (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 ~~[such]~~ the hearings, any officer or agency may  
23 protest budget items. ~~[A governor-elect shall be invited to~~  
24 ~~attend budget hearings and shall have the right to make~~  
25 ~~suggestions.]~~ "

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Section 13. REPEAL. -- Section 6-3-14 NMSA 1978 (being Laws 1921, Chapter 133, Section 314) is repealed.

Section 14. EMERGENCY. -- It is necessary for the public peace, health and safety that this act take effect immediately.



1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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6 February 9, 1999  
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8 Mr. Speaker:  
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10 Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to  
11 whom has been referred  
12

13 HOUSE BILL 37  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

- 17 1. On page 1, line 13, strike "; DECLARING AN EMERGENCY".  
18  
19 2. On page 4, line 11, strike "April" and insert in lieu  
20 thereof "May".  
21  
22 3. On page, 5, line 2, after the semi colon insert "and".  
23  
24 4. On page 5, strike lines 3 through 7 and insert in lieu  
25 thereof:

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"(4) other financial information as required by  
the division in consultation with the committee."

5. On page 5, line 9, strike "May" and insert in lieu  
thereof "June".

6. On page 5, line 13, strike "June" and insert in lieu  
thereof "July".

7. On page 5, line 19, after "measure" strike the  
remainder of the line, strike all of line 20 and strike line 21  
up to the period.

8. On page 6, line 3, after the dash, insert the  
subsection designation "A. ".

9. On page 6, line 5, strike "jointly".

10. On page 6, line 5, after "division" insert ", in  
consultation with".

11. On page 6, line 6, before "the" strike "and".

12. On page 6, line 6, strike "August" and insert in lieu

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thereof "September".

13. On page 6, line 7, strike "August" and insert in lieu thereof "September".

14. On page 6, between lines 9 and 10, insert the following new subsection:

"B. The division shall develop the state agency schedule so that all agencies, including the judicial branch of government and institutions of higher education, are implementing performance-based program budgeting by the end of fiscal year 2004. "

15. On page 6, line 16, strike "June 15" and insert in lieu thereof "July 1".

16. On page 6, line 16, strike "lieu of the" and insert in lieu thereof "addition to any other".

17. On page 6, strike lines 20 through 22.

18. Renumber the succeeding paragraphs accordingly.

19. On page 7, line 15, strike "August" and insert in

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lieu thereof "September".

20. On page 8, strike lines 22 through 25 and on page 9, strike lines 1 through 19.

21. On page 10, line 3, after the comma strike the remainder of the line, strike all of lines 4 through 7, strike line 8 through "Absent" and insert in lieu thereof "and absent".

22. On page 10, lines 12 through 22, strike all of Subsections F and G.

23. Reletter subsections to correspond with these amendments.

24. On page 15, line 3, remove the brackets and line-through from "September" and strike the underscored material.

25. On page 15, line 11, strike "October 1" and insert in lieu thereof "December 15".,

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

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Respectfully submitted,

\_\_\_\_\_  
James G. Taylor, Chairman

Adopted \_\_\_\_\_

(Chief Clerk)

Not Adopted \_\_\_\_\_

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

Excused: Hobbs, Saavedra

Absent: None

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

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4 February 13, 1999

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7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE BILL 37, as amended

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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21 Max Coll, Chair man

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 15 For 0 Against

Yes: 15

Excused: Townsend, Watchman

Absent: None

J: \99BillSWP\H0037

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