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SENATE BILL 400

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO NUTRITION; CREATING A NUTRITION COUNCIL; PROVIDING DUTIES; REQUIRING STUDIES; CREATING A FUND; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the "Nutrition Council Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that federal authorities have not intended to or expressed an intention to occupy and preempt the areas of nutrition addressed in the Nutrition Council Act and, therefore, the legislature may create a nutrition council to make recommendations to protect and ensure public health and safety for all New Mexicans.

B. The purpose of the Nutrition Council Act is to

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1 improve the quality of food grown in, produced in or imported
2 into New Mexico or exported from New Mexico and to educate New
3 Mexico residents in good nutritional choices.

4 Section 3. DEFINITIONS.--As used in the Nutrition Council
5 Act:

- 6 A. "council" means the nutrition council; and
- 7 B. "director" means the director of the council.

8 Section 4. NUTRITION COUNCIL--CREATED--MEMBERSHIP.--

9 A. The "nutrition council" is created, composed of
10 the following members:

- 11 (1) the assistant attorney general for
12 consumer protection or the assistant attorney general's
13 designee;
- 14 (2) the secretary of public education or the
15 secretary's designee;
- 16 (3) the secretary of health or the secretary's
17 designee; and
- 18 (4) the following members appointed by the
19 governor, who serve at the pleasure of the governor:
 - 20 (a) one pediatrician;
 - 21 (b) one internist or family
22 practitioner;
 - 23 (c) one cardiologist;
 - 24 (d) one toxicologist;
 - 25 (e) one doctorate-level biochemist;

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- 1 (f) one licensed nutritionist;
2 (g) one farmer;
3 (h) one rancher;
4 (i) one faculty member of the university
5 of New Mexico school of medicine;
6 (j) one dentist;
7 (k) one representative of the
8 cooperative extension service or the department of agriculture
9 at New Mexico state university; and
10 (l) one public member who is appointed
11 on the basis of active involvement in the area of nutrition.

12 B. Members of the council who are not paid by
13 taxpayer funds may receive per diem and mileage expenses
14 pursuant to the Per Diem and Mileage Act, but shall receive no
15 other compensation, perquisite or allowance.

16 C. The council shall annually elect a chair and
17 vice chair. The council shall meet at the call of the chair, a
18 majority of the members or the director. The director shall
19 serve as staff to the council.

20 D. The council is administratively attached to the
21 department of health, and the department of health shall
22 provide administrative support to the council.

23 Section 5. COUNCIL--DUTIES.--

24 A. The council may:

- 25 (1) study ways to improve the operations of

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1 state government relating to nutrition programs and to the
2 provision of nutrition services to the residents of the state;

3 (2) recommend courses of instruction and
4 practical training for employees of departments and other
5 persons involved in the administration of state nutrition
6 programs with the objective of improving the operations and
7 efficiency of the administration;

8 (3) develop nutrition education programs for
9 food stamp recipients;

10 (4) in consultation with nutrition experts and
11 the appropriate state agencies, recommend nutrition programs,
12 public education programs and campaigns on health, nutrition
13 and ideal weight maintenance for all state institutions and
14 public schools, colleges and universities;

15 (5) consult with the university of New Mexico
16 school of medicine to ensure that its nutrition curricula train
17 medical students in basic nutrition and how to prevent and
18 treat nutritional diseases;

19 (6) recommend the development and
20 implementation of nutrition and food safety programs to ensure
21 the nutritional health of New Mexico residents and the safety
22 of their food;

23 (7) advise the appropriate departments,
24 including the office of the attorney general, on areas of
25 concern such as:

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1 (a) the effect of artificial
2 ingredients, genetically modified organisms and food additives,
3 specifically carcinogens and neurotoxins, on the health of all
4 New Mexicans, particularly on pregnant women, neonates and
5 preschool-age children;

6 (b) the incidence of diabetes on Indian
7 pueblos and reservations;

8 (c) the effects of food-induced
9 hyperactivity and attention deficit disorders in children;

10 (d) obesity in all age groups; and

11 (e) other areas deemed important by the
12 council;

13 (8) make recommendations on ways to improve
14 nutrition in New Mexico;

15 (9) assist the appropriate agencies in
16 developing educational materials on nutrition and on toxic or
17 potentially toxic additives to foods and processes that result
18 in food toxicity;

19 (10) through the public education department,
20 advise public school districts on the development of nutrition
21 courses that are grade specific and that use texts in the field
22 of nutrition, preventive cardiology, preventive oncology and
23 preventive toxicology for New Mexico secondary school students;

24 (11) develop a nutrition questionnaire to be
25 sent to students in New Mexico that will be used to build a

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1 statewide nutrition database; and

2 (12) review the quality of public school lunch
3 programs and make a recommendation to the secretary of public
4 education to improve the sources of food for the school lunch
5 program.

6 B. The council may hire a director and such other
7 employees as are necessary to carry out the provisions of the
8 Nutrition Council Act.

9 Section 6. DIRECTOR OF COUNCIL--DUTIES.--

10 A. The director shall, at the direction of the
11 council:

12 (1) review and report on state agency efforts
13 to improve nutrition and food safety; and

14 (2) serve as a liaison with other state
15 agencies, including the department of health, the children,
16 youth and families department and the public education
17 department, in recommending the development and implementation
18 of nutrition and food safety programs.

19 B. The director shall recommend to the council a
20 list of foods, food additives, artificial ingredients,
21 genetically modified organisms or food processes that the
22 council should consider to determine if additional labeling
23 should be required because of carcinogens, neurotoxins or other
24 deleterious compounds. If the council determines additional
25 labeling should be required, it shall recommend the appropriate

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1 labeling and recommend that such labeling be reflected in the
2 nutrition and food safety standards.

3 C. The director shall recommend to the council the
4 appointment and compensation of such employees as may be
5 necessary to carry out the provisions of the Nutrition Council
6 Act within the appropriations made by the legislature.

7 Section 7. NUTRITION RESEARCH AND EDUCATION FUND--
8 CREATED--PURPOSE.--The "nutrition research and education fund"
9 is created as a nonreverting fund in the state treasury and
10 shall be administered by the department of health. The
11 department of health may establish procedures and adopt rules
12 as required to administer the nutrition research and education
13 fund. The nutrition research and education fund shall consist
14 of money that is appropriated, donated or otherwise accrues to
15 it, including grants from the federal government and other
16 public and private sources. Money in the nutrition research
17 and education fund shall be appropriated to the department of
18 health to carry out the provisions of the Nutrition Council
19 Act. Money shall be disbursed from the fund only on warrant of
20 the secretary of finance and administration upon vouchers
21 signed by the secretary of health or the secretary's authorized
22 representative. Any unexpended or unencumbered balance
23 remaining at the end of a fiscal year shall not revert to the
24 general fund.