

**FIFTIETH LEGISLATURE
FIRST SESSION, 2011**

March 17, 2011

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE BILL 404

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 13, after "FUND", strike the remainder of the line and strike line 14 up to the period.

2. On page 2, strike lines 10 through 25, and on page 3, strike lines 1 through 13 and insert in lieu thereof:

"(1) if the total amount recovered is less than ten million dollars (\$10,000,000), the fee shall not exceed twenty-five percent of the amount recovered;

(2) if the total amount recovered is equal to or greater than ten million dollars (\$10,000,000) but less than fifteen million dollars (\$15,000,000), the fee shall not exceed two million five hundred thousand dollars (\$2,500,000) plus twenty percent of the amount recovered above ten million dollars (\$10,000,000); and

(3) if the total amount recovered is equal to or greater than fifteen million dollars (\$15,000,000), the fee shall not exceed three million five hundred thousand dollars (\$3,500,000) plus fifteen percent of the amount recovered above fifteen million dollars (\$15,000,000)."

3. On page 4, line 6, strike the closing quotation mark.

4. On page 4, between lines 6 and 7, insert the following new subsections:

"E. All contingent fee contracts shall be subject to the provisions of the Procurement Code regarding competitive sealed proposals. No contingent fee contract shall be procured pursuant to the provisions of Section 13-1-126, 13-1-127 or 13-1-129 NMSA 1978.

F. Copies of any executed contingent fee contract and payment of contingency fees shall be posted on the web site maintained by the attorney general for public inspection within

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fifteen days after the payment of the contingency fees to the private attorney and shall remain posted on the web site for at least three hundred sixty-five days thereafter.

G. By the first day of February of each year, the attorney general shall submit a report to the president pro tempore of the senate and the speaker of the house of representatives describing the use of contingent fee contracts with private attorneys in the preceding calendar year. At a minimum, such reports shall identify all new contingent fee contracts entered into during the preceding calendar year and all previously executed contingent fee contracts that remain current during any part of the year, and for each contract describe:

- (1) the name of the private attorney with whom the attorney general has contracted, including the name of the attorney's law firm;
- (2) the nature and status of the legal matter;
- (3) the name of the parties to the action;
- (4) the amount of any recovery; and
- (5) the amount of any contingency fee paid."".

5. On page 4, line 7 through page 5, line 9, strike Section 2 in its entirety and insert in lieu thereof:

"SECTION 2. Section 13-1-150 NMSA 1978 (being Laws 1984, Chapter 65, Section 123, as amended) is amended to read:

"13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--

A. A multi-term contract for items of tangible personal property, construction or services, except for professional services, in an amount under twenty-five thousand dollars (\$25,000), may be entered into for any period of time deemed to be in the best interests of the state agency or a local public body not to exceed four years; provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications and funds are available for the first fiscal period at the time of contracting. If the amount of the contract is twenty-five thousand dollars (\$25,000) or more, the term shall not exceed eight years,

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including all extensions and renewals, except that for a contract entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act, the term shall not exceed twenty-five years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

B. A contract for professional services may not exceed four years, including all extensions and renewals, except for the following:

(1) services required to support or operate federally certified medicaid, financial assistance and child support enforcement management information or payment systems;

(2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;

(3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding;

(4) services relating to the implementation, operation and administration of the Education Trust Act; ~~and~~

(5) services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act; and

(6) services performed pursuant to a contingent fee contract between this state or any of its instrumentalities and a private attorney or law firm as authorized by law."

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The roll call vote on Amendments 1 and 5 was 13 For 1 Against
Yes: 13
No: Doyle
Excused: Cook
Absent: None

The roll call vote on Amendments 2, 3, 4 and 6 was 12 For 2
Against
Yes: 12
No: Gentry, Maestas
Excused: Cook
Absent: None

Respectfully submitted,

Al Park, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 14 For 0 Against
Yes: 14
No: 0
Excused: Cook
Absent: None

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