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HOUSE BILL 721

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

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO STATE GOVERNMENT; ENACTING THE SUNSET ACT;
TERMINATING ALL AGENCIES OF STATE GOVERNMENT; CREATING THE
SUNSET COMMISSION TO REVIEW AGENCIES AND RULES AND MAKE
RECOMMENDATIONS; REPEALING CERTAIN SECTIONS OF THE NMSA 1978.

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

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

Section 2. FINDINGS OF FACT. -- The legislature finds that
state government actions have produced a substantial increase
in numbers of programs and a proliferation of state agencies,
advisory committees, boards and commissions and their rules
and regulations and that the whole process has developed in a
haphazard, piecemeal fashion resulting in overlapping and
duplication without regulatory accountability or a system of

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1 checks and balances. The legislature further finds that by
2 establishing a system for periodic review of agencies, it will
3 be in a better position to evaluate the need for the continued
4 existence of the regulatory agencies covered by the Sunset
5 Act.

6 Section 3. TERMINATION OF AGENCIES ON JULY 1, 2001. --

7 Notwithstanding any other provision of law, the following
8 agencies are terminated on July 1, 2001:

- 9 A. the New Mexico compilation commission;
- 10 B. the judicial standards commission;
- 11 C. the supreme court building commission;
- 12 D. the educational retirement board;
- 13 E. the state commission of public records;
- 14 F. the personnel board;
- 15 G. the public employee labor relations board;
- 16 H. the board of examiners for architects;
- 17 I. the twenty-seven boards and commissions under
18 the administration of the regulation and licensing department;
- 19 J. the New Mexico board of medical examiners;
- 20 K. the board of nursing;
- 21 L. the state fair commission;
- 22 M. the state board of registration for
23 professional engineers and surveyors;
- 24 N. the state racing commission;
- 25 O. the New Mexico apple commission;

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- 1 P. the board of veterinary medicine;
2 Q. the bicycle racing commission;
3 R. the New Mexico livestock board;
4 S. the organic commodity commission;
5 T. the commission on the status of women;
6 U. the commission for deaf and hard-of-hearing
7 persons;
8 V. the Martin Luther King, Jr. commission;
9 W. the commission for the blind;
10 X. the New Mexico health policy commission;
11 Y. the New Mexico veterans' service commission;
12 Z. the crime stoppers commission;
13 AA. the parole board;
14 BB. the juvenile parole board;
15 CC. the crime victims reparation commission;
16 DD. the commission on higher education; and
17 EE. all other boards, commissions, task forces,
18 joint powers agreement agencies and advisory committees
19 created by executive order or action, state agency action or
20 state law.

21 Section 4. TERMINATION OF AGENCIES ON JULY 1, 2002. --

22 Notwithstanding any other provision of law, the following
23 agencies are terminated on July 1, 2002:

- 24 A. the legislative finance committee;
25 B. the legislative education study committee;

- 1 C. the administrative office of the courts;
- 2 D. the administrative office of the district
- 3 attorneys;
- 4 E. the taxation and revenue department;
- 5 F. the state investment council;
- 6 G. the department of finance and administration;
- 7 H. the public school insurance authority;
- 8 I. the retiree health care authority;
- 9 J. the general services department;
- 10 K. the criminal and juvenile justice coordinating
- 11 council;
- 12 L. the public defender department;
- 13 M. the office on information and communication
- 14 management;
- 15 N. the public employees retirement association;
- 16 O. the border authority;
- 17 P. the tourism department;
- 18 Q. the economic development department;
- 19 R. the regulation and licensing department;
- 20 S. the office of cultural affairs;
- 21 T. the department of game and fish;
- 22 U. the energy, minerals and natural resources
- 23 department;
- 24 V. the state engineer;
- 25 W. the New Mexico office of Indian affairs;

- 1 X. the state agency on aging;
2 Y. the human services department;
3 Z. the labor department;
4 AA. the workers' compensation administration;
5 BB. the governor's committee on concerns of the
6 handi capped;
7 CC. the developmental disabilities planning
8 council;
9 DD. the department of health;
10 EE. the department of environment;
11 FF. the office of natural resources trustee;
12 GG. the children, youth and families department;
13 HH. the department of military affairs;
14 II. the corrections department;
15 JJ. the department of public safety;
16 KK. the state highway and transportation
17 department;
18 LL. the legislative council service;
19 MM. the state department of public education; and
20 NN. all other state agencies created by state law,
21 executive order or action, except the sunset commission.

22 Section 5. WIND-UP PERIOD.--If no action is taken by the
23 legislature to extend the life of an agency by the date of
24 termination, the agency shall continue until the date of the
25 termination for the purpose of winding up its affairs. During

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1 the wind-up period, the termination shall not reduce or
2 otherwise limit the powers or authority of the agency.

3 Section 6. CONTINUATION. --The life of any agency
4 scheduled for termination under the Sunset Act may be
5 continued by the legislature, or the executive for agencies
6 created by executive action, for periods set by the
7 legislature or executive in such manner that the termination
8 occurs on July 1 of an odd-numbered year, and the delayed
9 repeal of the statutes creating the agency and related
10 statutes becomes effective on July 1 of the next following
11 even-numbered year.

12 Section 7. SUNSET COMMISSION CREATED. --

13 A. There is created the "sunset commission"
14 consisting of one member appointed by the speaker of the house
15 of representatives, one member appointed by the minority
16 leader of the house of representatives, one member appointed
17 by the president pro tempore of the senate, one member
18 appointed by the minority leader of the senate, four members
19 appointed by the governor, one member appointed by the
20 secretary of finance and administration, who shall serve ex
21 officio as the executive director of the commission, and the
22 lieutenant governor, who shall serve as chair of the
23 commission and who shall have full authority to vote on all
24 matters before the commission.

25 B. The commission is administratively attached to

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1 the department of finance and administration.

2 C. Public members and members appointed by
3 legislators shall receive per diem and mileage in accordance
4 with the Per Diem and Mileage Act and shall receive no other
5 compensation or salary.

6 D. Appointed members shall serve only one term
7 consisting of two consecutive years. If a legislative member
8 ceases to be a member of the house from which he was
9 appointed, the member vacates his membership on the
10 commission. In the event of a vacancy, the appropriate
11 appointing authority shall appoint a qualified person to serve
12 for the remainder of the unexpired term.

13 E. A majority of members present at each meeting
14 constitutes a quorum.

15 F. The sunset commission is terminated on July 1,
16 2004.

17 Section 8. SUNSET COMMISSION--DUTIES.--

18 A. The sunset commission shall review all state
19 agencies, boards, commissions, advisory committees, task
20 forces and joint powers agreement agencies and make
21 recommendations to the legislature at the legislative session
22 prior to the scheduled termination of that agency as set forth
23 in the Sunset Act regarding whether those agencies should
24 continue in existence and if so, for how long. The commission
25 shall also recommend changes to existing state law that would

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1 make the agency more effective and may recommend whether
2 agencies should be combined.

3 B. In making its recommendation to the
4 legislature, the commission shall take into consideration all
5 or applicable parts of the following:

6 (1) the extent to which the agency has
7 permitted qualified applicants to serve the public;

8 (2) the extent to which the agency has
9 operated in the public interest and the extent to which its
10 operation has been impeded or enhanced by existing statutes,
11 procedures and practices and by budgetary, resource and
12 personnel matters;

13 (3) the extent to which the agency has
14 recommended statutory changes to the legislature that would
15 benefit the public as opposed to the persons it regulates;

16 (4) the extent to which persons regulated by
17 the agency have exercised control over the policies and
18 actions of the agency and the extent to which the agency
19 requires the persons it regulates to report to it concerning
20 the impact of rules and decisions of the agency regarding
21 improved service, economy of service and availability of
22 service;

23 (5) the extent to which persons regulated by
24 the agency have been required to assess problems in their
25 industry that affect the public;

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1 (6) the extent to which the agency has
2 encouraged participation by the public in making its rules and
3 decisions as opposed to participation solely by the persons it
4 regulates;

5 (7) the efficiency with which formal public
6 complaints filed with the agency concerning persons subject to
7 regulation have been processed to completion by the agency;
8 and

9 (8) the extent to which changes are necessary
10 in the enabling laws of the agency to adequately comply with
11 the above factors.

12 Section 9. EXISTING CLAIMS AND RIGHTS. -- The Sunset Act
13 shall not cause the dismissal of any claim or right of a
14 citizen against any agency specified therein or any claim or
15 right of such an agency terminated pursuant to that act that
16 is subject to litigation. The claims and rights of such an
17 agency shall be assumed by an agency designated by the
18 governor. Nothing in the Sunset Act shall interfere with the
19 legislature otherwise considering legislation on any agency
20 mentioned therein.

21 Section 10. INSPECTION FUNCTIONS-- ASSIGNMENTS. -- The
22 governor may by executive order assign any safety or health
23 inspection function repealed pursuant to the terms of the
24 Sunset Act to any other appropriate state department or agency
25 within the executive department of state government.

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1 Section 11. RULE REVIEW. --Each agency subject to the
2 provisions of the Sunset Act shall review its rules within six
3 months of the effective date of that act and, as a result of
4 that review, update its rules at least once every year. Each
5 agency subject to the provisions of the Sunset Act shall
6 submit to the sunset commission each year a copy of its rules
7 and a status report on actions the agency took on its rules
8 during the last fiscal year. The sunset commission shall
9 review those rules and all laws relating to those agencies
10 before July 1, 2004.

11 Section 12. REPEAL. --Sections 12-9-11, 12-9-12, 12-9-17
12 through 12-9-22, 28-1-15, 31-22-24, 50-1-9, 60-1-26, 60-2A-30,
13 60-13-58, 60-14-16, 61-2-18, 61-3-31, 61-4-17, 61-5A-30,
14 61-6-35, 61-7A-15, 61-8-17, 61-9-19, 61-9A-30, 61-10-22,
15 61-11-29, 61-12A-24, 61-12B-16, 61-12C-28, 61-12D-17,
16 61-13-17, 61-14-20, 61-14A-22, 61-14B-25, 61-14D-19, 61-15-13,
17 61-17A-25, 61-23-32, 61-24B-17, 61-24C-17, 61-28A-28,
18 61-29-19, 61-31-25, 61-32-31, 69-25A-36, 74-6-17 and 77-2-28
19 NMSA 1978 (being Laws 1981, Chapter 241, Sections 1 and 2 and
20 7 through 11, Laws 1989, Chapter 288, Section 1, Laws 1987,
21 Chapter 333, Section 1, Laws 1993, Chapter 207, Section 10,
22 Laws 1987, Chapter 333, Sections 2 and 3, Laws 1980, Chapter
23 90, Section 30, Laws 1978, Chapter 194, Section 1, Laws 1983,
24 Chapter 295, Section 21, Laws 1979, Chapter 12, Section 3,
25 Laws 1979, Chapter 379, Section 11, Laws 1979, Chapter 77,

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1 Section 2, Laws 1994, Chapter 55, Section 42, Laws 1979,
2 Chapter 40, Section 2, Laws 1989, Chapter 387, Section 15,
3 Laws 1979, Chapter 385, Section 2, Laws 1978, Chapter 188,
4 Section 2, Laws 1993, Chapter 49, Section 30, Laws 1979,
5 Chapter 36, Section 2, Laws 1979, Chapter 266, Section 2, Laws
6 1996, Chapter 55, Section 24, Laws 1984, Chapter 103, Section
7 17, Laws 1993, Chapter 173, Section 21, Laws 1997, Chapter 89,
8 Section 17, Laws 1978, Chapter 206, Section 1, Laws 1979,
9 Chapter 76, Section 2, Laws 1993, Chapter 158, Section 30,
10 Laws 1996, Chapter 57, Section 25, Laws 1993, Chapter 325,
11 Section 19, Laws 1979, Chapter 362, Section 10, Laws 1993,
12 Chapter 171, Section 27, Laws 1987, Chapter 336, Section 32,
13 Laws 1985, Chapter 151, Section 18, Laws 1993, Chapter 83,
14 Sections 5 and 6, Laws 1978, Chapter 203, Section 2, Laws
15 1989, Chapter 51, Section 27, Laws 1993, Chapter 204, Section
16 31, Laws 1987, Chapter 333, Sections 14 and 15 and Laws 1981,
17 Chapter 5, Section 1, as amended) are repealed.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
5
6 February 25, 1999

7
8 Mr. Speaker:

9
10 Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
11 whom has been referred

12
13 HOUSE BILL 721

14
15 has had it under consideration and reports same with
16 recommendation that it DO NOT PASS, and thence referred
17 to the BUSINESS AND INDUSTRY COMMITTEE.

18 Respectfully submitted,

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22 _____
23 James G. Taylor, Chairman
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25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HGUAC/HB 721

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 1 Against

Yes: 5

No: Mallory

Excused: Hobbs

Absent: None

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