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SENATE BILL 54

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE TAXPAYER PROTECTION ACT; ESTABLISHING AN EXPENDITURE LIMITATION FORMULA; IMPLEMENTING A NEW SECTION OF ARTICLE 4 OF THE CONSTITUTION OF NEW MEXICO.

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

Section 1. A new section of Chapter 6 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Taxpayer Protection Act"."

Section 2. A new section of Chapter 6 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Taxpayer Protection Act:

A. "excess revenue" means unexpended and

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1 unencumbered state revenue in the general fund on June 30 of a
2 fiscal year in excess of the expenditure limit set annually by
3 the legislature pursuant to the Taxpayer Protection Act;

4 B. "expenditure limit" means the limit imposed on
5 state revenue in each fiscal year pursuant to the Taxpayer
6 Protection Act; and

7 C. "fiscal year" means the state fiscal year
8 beginning on July 1 of each year."

9 Section 3. A new section of Chapter 6 NMSA 1978 is
10 enacted to read:

11 "[NEW MATERIAL] DETERMINATION OF EXPENDITURE LIMIT.--

12 A. Beginning in the second session of the fiftieth
13 legislature and in each regular session of the legislature
14 thereafter, the legislature shall set an expenditure limit for
15 each subsequent fiscal year prior to adopting a budget for that
16 upcoming fiscal year that shall equal the expenditure limit in
17 the prior fiscal year plus:

18 (1) the percent increase in the population of
19 New Mexico in the most recent prior calendar year for which
20 there is population data available, as estimated annually by
21 the bureau of business and economic research of the university
22 of New Mexico, multiplied by the prior fiscal year's
23 expenditure limit; plus

24 (2) the product of three and six-tenths
25 percent multiplied by the prior fiscal year's expenditure

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1 limit.

2 B. For fiscal year 2012, the legislature shall set
3 an expenditure limit during the first session of the fiftieth
4 legislature by adding to the expenditures made in fiscal year
5 2010 an amount equal to:

6 (1) the percent increase in the population of
7 New Mexico in the most recent prior calendar year for which
8 there is population data available, as estimated annually by
9 the bureau of business and economic research of the university
10 of New Mexico, multiplied by the total expenditures from the
11 general fund made in fiscal year 2010; plus

12 (2) the product of three and six-tenths
13 percent multiplied by the total expenditures from the general
14 fund made in fiscal year 2010."

15 Section 4. A new section of Chapter 6 NMSA 1978 is
16 enacted to read:

17 "[NEW MATERIAL] EXCESS REVENUE--DISTRIBUTION--REBATES.--
18 Money in the general fund in fiscal year 2012 or any subsequent
19 fiscal year in excess of the expenditure limit set annually by
20 the legislature for that fiscal year pursuant to this section
21 shall be distributed in the following manner:

22 A. sixty percent of the unexpended or unencumbered
23 balance in the general fund on June 30 of each fiscal year
24 exceeding the expenditure limit for that fiscal year shall be
25 deposited by the state treasurer in the severance tax permanent

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1 fund; and

2 B. forty percent of the unexpended or unencumbered
3 balance in the general fund on June 30 of any fiscal year
4 exceeding the expenditure limit for that fiscal year shall be
5 returned by the secretary of taxation and revenue on an equal
6 per capita basis as an expenditure limit rebate to persons
7 filing personal income tax returns for the calendar year in
8 which the excess is determined."

9 Section 5. A new section of the Income Tax Act is enacted
10 to read:

11 "[NEW MATERIAL] EXPENDITURE LIMIT REBATES.--

12 A. Except as otherwise provided in this section, a
13 resident who files an individual New Mexico income tax return
14 and who is not a dependent of another individual is entitled to
15 an expenditure limit credit in taxable years beginning on or
16 after January 1, 2012, in an amount determined pursuant to
17 Section 4 of the Taxpayer Protection Act. If the resident has
18 no income taxable pursuant to the Income Tax Act, the credit is
19 refundable.

20 B. The credit due a taxpayer shall be first used to
21 offset income taxes owed to the state by the taxpayer; or if
22 the taxpayer is due a refund, the credit shall be added to the
23 refund due to the taxpayer.

24 C. For the purposes of this section, one credit may
25 be claimed by each taxpayer filing an income tax return who

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1 claims to be a New Mexico resident over eighteen years of age
2 by January 1 of the taxable year. A husband and wife filing
3 jointly may claim one credit each, provided that each spouse
4 claiming a credit is over the age of eighteen on January 1 of
5 the taxable year. A husband and wife filing separately may
6 each claim one credit. A husband and wife who have filed a
7 joint return where only one individual is a New Mexico resident
8 shall claim only one credit for the spouse claiming New Mexico
9 residency.

10 D. The department shall not refund funds pursuant
11 to this section to a person who:

12 (1) was an inmate of a public institution for
13 more than six months during the taxable year for which the
14 credit is being claimed; or

15 (2) was not a resident of New Mexico on the
16 last day of the taxable year for which the credit is being
17 claimed.

18 E. The secretary may adopt rules necessary to
19 administer the provisions of this section."

20 Section 6. CONTINGENT EFFECTIVE DATE.--The effective date
21 of the provisions of this act is January 1 following adoption
22 by the electorate of an amendment to the constitution of New
23 Mexico, entitled "A JOINT RESOLUTION PROPOSING AN AMENDMENT TO
24 ARTICLE 4 OF THE CONSTITUTION OF NEW MEXICO TO LIMIT THE
25 LEGISLATURE'S ABILITY TO INCREASE STATE EXPENDITURES".

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