

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 493

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE PUBLIC FINANCE ACCOUNTABILITY ACT; ESTABLISHING FUNDING CRITERIA AND GRANT MANAGEMENT AND OVERSIGHT REQUIREMENTS; ENUMERATING DUTIES OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Public Finance Accountability Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Public Finance Accountability Act:

A. "annual audit" means the annual audit or

1 examination of the financial affairs of a grantee by an  
2 independent auditor required by the Audit Act;

3 B. "department" means the department of finance and  
4 administration;

5 C. "grant" means a non-exchange transaction whereby  
6 a state agency makes a capital outlay appropriation or other  
7 special purpose appropriation available to a grantee;

8 D. "grant agreement" means a written agreement  
9 pursuant to which a state agency grants a capital outlay  
10 appropriation or other special purpose appropriation to a  
11 grantee;

12 E. "grantee" means an entity to which a state  
13 agency grants a capital outlay appropriation or other special  
14 purpose appropriation;

15 F. "independent auditor" means a certified public  
16 accountant or chartered accountant who has been approved by the  
17 state auditor to examine financial records and transactions of  
18 a grantee to impartially and objectively determine compliance  
19 with generally accepted accounting principles and state laws  
20 and rules; and

21 G. "state agency" means any department,  
22 institution, board, bureau, commission, district or committee  
23 of state government.

24 SECTION 3. [NEW MATERIAL] FUNDING CRITERIA.--

25 A. The department shall establish the following

1 funding criteria for a grantee to be eligible for a capital  
 2 outlay appropriation or other special purpose appropriation to  
 3 political subdivisions of the state:

4 (1) STBTC→~~a grantee's most recently completed~~  
 5 ~~annual audit must be a public record pursuant to Section 12-6-5~~  
 6 ~~NMSA 1978;~~←STBTC STBTC→a grantee shall have completed an  
 7 annual audit for one of the past two fiscal years, and the most  
 8 recently completed annual audit shall be a public record  
 9 pursuant to the Audit Act;←STBTC

10 (2) if a grantee's most recently completed  
 11 annual audit documents material weaknesses or significant  
 12 deficiencies:

13 (a) the grantee shall prepare an  
 14 actionable plan to address the material weaknesses and  
 15 significant deficiencies;

16 (b) the state agency making the grant  
 17 shall provide support to the grantee to prepare and implement  
 18 the grantee's plan to adequately address the material  
 19 weaknesses and STBTC→significant←STBTC deficiencies; or

20 (c) if the grantee's prior year audit  
 21 findings have repeated material weaknesses and  
 22 STBTC→significant←STBTC deficiencies for more than two  
 23 consecutive fiscal years from the fiscal year the grant is  
 24 being considered, the state agency making the grant shall have  
 25 determined that another appropriate entity is able and willing

1 to act as fiscal agent for the grant;

2 (3) if the grantee's most recently completed  
3 annual audit of public record is not from either of the two  
4 immediate past fiscal years STBTC→~~or if the opinion of the most~~  
5 ~~recently completed annual audit is qualified, modified,~~  
6 ~~disclaimed or adverse~~←STBTC , the state agency making the grant  
7 shall have determined that another appropriate entity is able  
8 and willing to act as fiscal agent for the grant;

9 (4) in the case of a grantee that is not  
10 required to have annual audits conducted pursuant to the Audit  
11 Act:

12 (a) the grantee shall have demonstrated  
13 to the satisfaction of the state agency making the grant that  
14 it has adequate accounting methods and procedures to manage and  
15 expend grant funds in accordance with applicable law and  
16 account for and safeguard grant funds and assets acquired by  
17 grant funds;

18 (b) STBTC→if necessary,←STBTC the state  
19 agency shall have determined that it can impose and has the  
20 resources to implement special grant conditions that will  
21 adequately address any relevant deficiencies in the grantee's  
22 accounting methods and procedures; or

23 (c) STBTC→if necessary,←STBTC the state  
24 agency STBTC→shall←STBTC STBTC→may←STBTC have determined that  
25 another appropriate entity is able and willing to act as fiscal

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1 agent for the grant; and

2 (5) the grantee shall be in compliance with  
3 any financial reporting requirements, including those  
4 enumerated in the Audit Act, and shall have a budget for the  
5 current fiscal year approved by any applicable governing body  
6 or oversight agency.

7 B. If a grantee is not in agreement with the  
8 department's or state agency's decision to require a fiscal  
9 agent for a grant, the grantee may file a written appeal with  
10 the department or state agency within one week of the  
11 department's or state agency's decision to require a fiscal  
12 agent; provided that once a written appeal is filed with the  
13 department or state agency, the chief financial officer of the  
14 department or state agency shall review and discuss the appeal  
15 with the grantee and then prepare a written set of findings  
16 upholding or overturning the original department or state  
17 agency decision to require the grantee to have a fiscal agent.

18 C. The department shall require the funding  
19 criteria set forth in Subsection A of this section to be met  
20 prior to allowing a state agency to:

21 (1) certify to the state board of finance for  
22 the issuance of severance tax or general obligation bonds for a  
23 project; or

24 (2) make a grant to a grantee.

25 SECTION 4. [NEW MATERIAL] GRANT MANAGEMENT AND OVERSIGHT

1 REQUIREMENTS.--The department shall establish grant management  
2 and oversight requirements that, at a minimum, require state  
3 agencies to:

4 A. ensure that sales, leases and licenses of  
5 capital assets acquired with capital outlay appropriations and  
6 special purpose appropriations granted to a grantee are  
7 approved in accordance with applicable law;

8 B. in the event no oversight agency is required to  
9 approve of a sale, lease or license of capital assets acquired  
10 with capital outlay appropriations and special purpose  
11 appropriations granted to a grantee, independently confirm that  
12 the disposition of capital assets complies with applicable law  
13 and that the grantee is receiving adequate consideration in  
14 exchange for the capital assets;

15 C. utilize the appropriate capital outlay grant  
16 agreement template developed by the department; and

17 D. conduct field audits of capital outlay projects,  
18 on a statistical or stratified basis, in accordance with  
19 procedures and policies prescribed by the department.

20 SECTION 5. [NEW MATERIAL] DUTIES OF THE DEPARTMENT.--The  
21 department shall:

22 A. prescribe procedures, policies and processing  
23 and appeal documents to implement the funding criteria and  
24 grant management requirements set forth in Sections 3 and 4 of  
25 the Public Finance Accountability Act;

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1 B. prescribe one or more capital outlay grant  
2 agreement templates for use by state agencies;

3 C. develop criteria for granting requests for  
4 deviations from its grant agreement templates and grant  
5 management and oversight requirements; and

6 D. monitor and enforce state agencies' compliance  
7 with the funding criteria and grant management and oversight  
8 requirements of Sections 3 and 4 of the Public Finance  
9 Accountability Act.

10 SECTION 6. [NEW MATERIAL] FORCE MAJEURE PROVISION.--

11 A. Upon a showing by a prospective grantee that  
12 strict compliance with the Public Finance Accountability Act  
13 was impractical or impossible due to a flood, hurricane,  
14 tornado, earthquake, other declared natural disaster, armed  
15 conflict, terrorist attack, riot, pandemic, epidemic or other  
16 force majeure circumstance, the secretary of finance and  
17 administration, in consultation with the state auditor, may  
18 temporarily waive strict compliance with the requirements of  
19 that act.

20 B. Such a waiver shall only be granted upon a  
21 determination that adequate alternatives exist to protect  
22 against waste, fraud or abuse of public funds.

23 C. The determination that a waiver is warranted  
24 shall be documented in writing, specifying the reasons for the  
25 waiver and the alternative measures that will be implemented to

1 ensure the protection of public funds.

2 D. The waiver shall be limited in duration and  
3 scope to address the specific circumstances necessitating the  
4 waiver and shall be subject to periodic review to assess the  
5 continued need for such waiver.

6 E. The secretary of finance and administration  
7 shall ensure that any waiver granted pursuant to this section  
8 is communicated to all relevant state agencies and grantees,  
9 along with guidance on the alternative measures to be followed  
10 during the waiver period.

11 F. The provisions of this section shall not be  
12 construed to permit any action that would otherwise violate  
13 state law or compromise the integrity of public finance  
14 management.

15 SECTION 7. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2025.

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