

1 SENATE BILL 355

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

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

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

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

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

21 A. "annual audit" means the annual audit or
22 examination of the financial affairs of a grantee by an
23 independent auditor required by the Audit Act;

24 B. "department" means the department of finance and
25 administration;

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

4 D. "grant agreement" means a written agreement
5 pursuant to which a state agency grants a capital outlay
6 appropriation or other special purpose appropriation to a
7 grantee;

8 E. "grantee" means an entity to which a state
9 agency grants a capital outlay appropriation or other special
10 purpose appropriation;

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

17 G. "state agency" means any department,
18 institution, board, bureau, commission, district or committee
19 of state government.

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

21 A. The department shall establish the following
22 funding criteria for a grantee to be eligible for a capital
23 outlay appropriation or other special purpose appropriation to
24 political subdivisions of the state:

25 (1) a grantee shall have completed an annual

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1 audit for one of the past two fiscal years and the most
2 recently completed annual audit shall be a public record
3 pursuant to the Audit Act;

4 (2) if a grantee's most recently completed
5 annual audit documents material weaknesses or significant
6 deficiencies:

7 (a) the grantee shall prepare an
8 actionable plan to address the material weaknesses and
9 significant deficiencies;

10 (b) the state agency making the grant
11 shall provide support to the grantee to prepare and implement
12 the grantee's plan to adequately address the material
13 weaknesses and deficiencies; or

14 (c) if the grantee's prior year audit
15 findings have repeated material weaknesses and deficiencies for
16 more than two consecutive fiscal years from the fiscal year the
17 grant is being considered, the state agency making the grant
18 shall have determined that another appropriate entity is able
19 and willing to act as fiscal agent for the grant;

20 (3) in the case of a grantee that is not
21 required to have annual audits conducted pursuant to the Audit
22 Act:

23 (a) the grantee shall have demonstrated
24 to the satisfaction of the state agency making the grant that
25 it has adequate accounting methods and procedures to manage and

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1 expend grant funds in accordance with applicable law and
2 account for and safeguard grant funds and assets acquired by
3 grant funds;

4 (b) the state agency shall have
5 determined that it can impose and has the resources to
6 implement special grant conditions that will adequately address
7 any relevant deficiencies in the grantee's accounting methods
8 and procedures; or

9 (c) the state agency shall have
10 determined that another appropriate entity is able and willing
11 to act as fiscal agent for the grant; and

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

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

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

23 (2) make a grant to a grantee.

24 SECTION 4. [NEW MATERIAL] GRANT MANAGEMENT AND OVERSIGHT
25 REQUIREMENTS.--The department shall establish grant management

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1 and oversight requirements that, at a minimum, require state
2 agencies to:

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

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

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

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

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

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

25 B. prescribe one or more capital outlay grant

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1 agreement templates for use by state agencies;

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

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

9 SECTION 6. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2025.